



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

DEC 20 2012

CERTIFIED MAIL: RETURN RECEIPT REQUESTED #7004 1160 0003 0353 6780
GENERAL NOTICE LETTER, URGENT LEGAL MATTER - PROMPT REPLY NECESSARY

Van Goodgame, President & CEO
Goodgames Industrial Solutions
321 FM 517 Road E
Dickenson, Texas 77539

Ref: U.S. Oil Recovery Superfund Site, Pasadena, Harris County, Texas

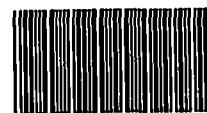
Dear Sir:

The purpose of this letter is to notify you of Goodgames Industrial Solutions' potential liability at the U.S. Oil Recovery (USOR) Superfund Site ("the Site.") Currently there is an ongoing removal action designed to stabilize the Site, remove the immediate threat posed at the Site and set the stage for a later, more comprehensive response action.

The USOR Superfund Site is located on two parcels of land -- one located at 400 North Richey Street and one at 200 North Richey Street, in Pasadena, Harris County, Texas. The Site includes a warehouse, retention pond and several containment areas throughout, as well as above ground storage tanks, totes, drums, roll-off containers, secondary containment area, including an office area and a building that houses boxes of records. U.S. Oil Recovery LLP and/or MCC Recycling LLP received municipal and industrial Class I and Class II wastewater, characteristically hazardous waste, used oil and oily sludges, and municipal solid waste. The MCC property, located at 200 North Richey Street, and which is also a part of the Site, is bordered by commercial businesses on each side and is split into two sections by Vince Bayou.

A Superfund Site is a place that is contaminated with hazardous substances at levels that may present a threat to human health or the environment. Under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607, potentially responsible parties (PRPs) may be required to perform cleanup actions to protect the public health and welfare or the environment. PRPs include current and former owners and operators of the Site, as well as persons who sent or transported hazardous substances to the Site for disposal or treatment, or who arranged for the disposal or treatment of hazardous substances at the Site.

Based on the information collected, the EPA believes that Goodgames Industrial Solutions may be liable under Section 107(a) of CERCLA with respect to the Site as a person who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by such person. Enclosure A explains the General Notice and Removal Action, and offers you the opportunity to enter into the August 25, 2011, Administrative Order on Consent (AOC) as a Settling Party concerning the cleanup of the Site. Enclosure B explains the basis for the EPA's determination that Goodgames Industrial Solutions is a PRP. Also included in this letter as Enclosure C is the Small Business Resource Fact Sheet. Enclosure D is the AOC and the Statement of Work (SOW). (ALL ENCLOSURES ARE CONTAINED ON THE ENCLOSED CD)

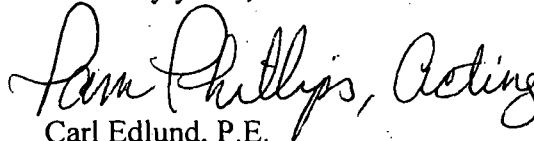


The EPA invites you to participate in the performance of the on-going work under the AOC. You should contact Mr. Randy Smith at 603-673-0004, who is leading the PRP Steering Committee for the PRPs.

Upon reviewing the enclosed Notice (Enclosure A), please provide a written response to Ms. Cynthia Brown, Removal Enforcement Coordinator, at 214-665-7480 within **30 days** after receipt of this letter to let her know whether you will enter into the AOC that addresses the current response at the Site.

If you have questions regarding the notice or any of the other documentation included, please contact Ms. Brown at 214-665-7480, or at brown.cynthia@epa.gov. Questions concerning legal matters should be directed to EPA attorney Mr. Edwin Quinones at 214-665-8035, or quinones.edwin@epa.gov. Thank you for your attention to this matter.

Sincerely yours,

A handwritten signature in cursive script that reads "Carl Edlund, P.E." followed by "Acting" in a larger, more stylized script.

Carl Edlund, P.E.
Director
Superfund Division

Enclosures (4)

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Van Goodgame
President & CEO
Goodgames Industrial Solutions
321 FM 517 Road E
Dickenson, Texas 77539

2. Article Number

(Transfer from service label)

7004 1160 0003 0353 6780

COMPLETE THIS SECTION ON DELIVERY**A. Signature**

[Handwritten Signature]

- ☐ Agent
☐ Addressee

B. Received by (Printed Name)

[Handwritten Name: R. Harris]

C. Date of Delivery

[Handwritten Date: 12-27-12]

- D. Is delivery address different from item 1?** ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

- 4. Restricted Delivery? (Extra Fee)** ☐ Yes

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

- Sender: Please print your name, address, and ZIP+4 in this box •

Cynthia Brown, Enforcement Officer
Environmental Protection Agency, Region 6
1445 Ross Avenue, 6SF-TE
Dallas, Texas 75202

12/27



U.S. Postal Service™

CERTIFIED MAIL™ RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com®

OFFICIAL USE

Postage \$

Certified Fee

Return Receipt Fee
(Endorsement Required)

Restricted Delivery Fee
(Endorsement Required)

Postmark
Here

Total Price

Sent To

Street, Apt.
or PO Box

City, State

Van Goodgame

President & CEO

Goodgames Industrial Solutions

321 FM 517 Road E

Dickenson, Texas 77539

0829 ES50 E000 09TT 4002

U.S. OIL RECOVERY SUPERFUND SITE

ENCLOSURE A

GENERAL NOTICE

**U.S. OIL RECOVERY SUPERFUND SITE
ENCLOSURE A**

**GENERAL NOTICE
REMOVAL ACTION**

This Notice is from the U.S. Environmental Protection Agency (EPA). This Notice is directed to RESCAR, the Potentially Responsible Party (PRP) of the U.S. Oil Recovery (USOR) Superfund Site. This Notice does three things:

1. This Notice tells you that RESCAR may be responsible for the presence of hazardous substances found at the Site. When we say “Site” or “property” in this Notice, we mean the U.S. Oil Recovery Superfund Site which is the “property” located at 400 North Richey Street and the affiliated property located at 200 North Richey Street, Pasadena, Harris County, Texas. This Notice is issued under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund).
2. This Notice provides background information leading up to the EPA’s investigation of the Site and the EPA’s activities to determine the source of the contamination.
3. This Notice explains that the EPA will consider your ability to pay in determining an appropriate settlement amount.

NOTICE THAT YOU MAY BE LIABLE

Under Section 107 of CERCLA, 42 U.S.C. § 9607, responsible parties are those who are current owners or operators of a facility, past owners or operators who owned or operated the facility at the time hazardous substances were released or disposed of at the facility, persons who arranged for disposal or treatment at the facility (usually the person(s) who generated the hazardous substance), or persons who selected that facility and transported the hazardous substances to the facility. Section 107 of CERCLA, 42 U.S.C. § 9607, states that responsible parties are liable to the United States for the costs it has incurred or will incur conducting a response action such as that proposed for the USOR Superfund Site. A PRP is therefore responsible for performing the cleanup action in accordance with the EPA requirements, paying for the cleanup by the EPA, and reimbursing the Federal Government for past and future costs of the cleanup activities.

BACKGROUND

The USOR opened for business in May 2002, in Pasadena, Texas, to handle used oil. In its proprietary plant, USOR performed municipal and industrial wastewater pretreatment of Class I and Class II wastewater, characteristically hazardous waste, used oil and oily sludges and municipal solid waste. The USOR facility is located on approximately 13 acres located north of the City of Pasadena at 400 North Richey Street. The MCC Recycling facility which is part of the common operation, is located on approximately 5 acres located north of the City of Pasadena at 200 North Richey Street with a mailing address and business office at 400 North Richey Street. Both locations collectively are considered “the Site.”

To date, the EPA has taken several response actions at the Site under the authority of the Superfund program. Below is a brief description of the actions taken at the Site.

The Site has had three EPA emergency response actions, followed by a time-critical response which is currently ongoing. The EPA and its contractors performed preliminary assessments of the Site property on July 2, 2010, and again on November 9, 2010. The preliminary assessments identified and observed the historic and ongoing release of hazardous substances from the Site property, to wit: the waste receiving facility (USOR) and pretreatment facility (MCC).

On July 2, 2010, the EPA activated Emergency Rapid Response Services (ERRS) contractors to the Site to contain off-site migration, to mitigate the threat and stabilize the Site. Containment actions included placement of booms and absorbent pads, use of pumps and 13 frac tanks, and establishing temporary staging areas for warehouse drums and totes following segregation. Mitigation actions included dropping containment content elevations to below overflow threat levels creating free-board or emptying completely, drum over-packing, drum and tote sampling and assessing by field hazard characterization analysis, drum and tote segregating and marking, securing roll-off containers (with tarps, bows, or poles as needed), and securing perimeter fencing (repair section of damaged fence and replace missing locks).

Contaminated site liquids that accumulated from overflowing roll-off containers, containments, secondary containments, the retention pond, unloading bays, leaking drums and totes, and from the parking lot were shipped offsite and disposed of at the Inter Gulf Corporation facility in Pasadena, Texas.

On November 8, 2010, and again in January, 2011, the EPA was requested to respond to the USOR facility to manage Site runoff of contaminated storm water. The EPA activated the ERRS contractors and Superfund Technical Assessment and Response Team (START-3) contractors to mobilize to the Site, contain offsite migration, mitigate the threat, and stabilize the Site. The EPA has repeatedly dropped the levels in the secondary containments and bays and removed pH less than 2 liquids and sludges and benzene contaminated sludges to also prevent overflow of contamination.

The scope of the time-critical removal action, as described in the March 17, 2011, Action Memorandum, includes the removal and disposal of hazardous substances that were abandoned at the two properties within the Site and which have been the source of previous and ongoing emergency response actions to stabilize the Site. Hazardous substances, pollutants, or contaminants have been found in above ground storage tanks, totes, drums, roll-off box containers, containment areas, secondary containment areas, a retention pond, parking lots, a bioreactor, and throughout the former waste water treatment facility.

On February 4, 2011, the EPA commenced a Hazard Ranking Score (HRS) investigation at the Site to determine whether the Site would score high enough to be proposed to the National Priorities List (NPL). During the HRS sampling, the EPA detected hazardous substances in a number of soil and source sample locations. These findings included aluminum, mercury, chromium, copper, lead, nickel, manganese, and zinc, plus volatile organic compounds such as acetone, carbon disulfide, methyl acetate, 2-butanone, and 4-methyl-2-pentanone, naphthalene, phenanthrene, and pyrene. Based on the sampling results and other factors, the EPA proposed the Site to be added to the NPL.

FINANCIAL CONCERNS/ABILITY TO PAY SETTLEMENTS

The EPA is aware the financial ability of some PRPs to contribute toward the cleanup and/or payment of response costs at a site may be substantially limited. If you believe, and can document, that you fall within that category, please contact Cynthia Brown, at 214-665-7480 for information on "Ability to Pay Settlements." In response, you will receive a package of information about the potential for such settlements. If the EPA concludes that you have a legitimate inability to pay the full amount of the EPA's costs, the EPA may offer a schedule for payment over time or a reduction in the total amount demanded from you.

Also, please note that because the EPA has a potential claim against you, if your financial status changes in any significant way, i.e., filing for bankruptcy, you must include the EPA as a creditor.

YOUR RESPONSE TO THE EPA

In addition to oral notification, please notify Ms. Brown in **writing** at the address indicated below ***within thirty (30) calendar days of the date of receipt of this letter*** to indicate your willingness to enter into the Administrative Order on Consent **to perform the cleanup of the Site , or reimburse the Federal Government for past and future costs of the cleanup activities. If the EPA does not receive your response within thirty (30) calendar days, the EPA will assume you do not wish to negotiate, and the EPA will then take whatever actions are necessary to abate the potential threat to human health and the environment posed by chemicals on the property.**

Your response to this letter and questions regarding the matters in this letter should be directed to:

Ms. Cynthia Brown
Removal Enforcement Coordinator (6SF-TE)
United States Environmental Protection Agency
Region 6
1445 Ross Avenue
Dallas, Texas 75202
Telephone: 214-665-7480
Fax: 214-665-6660
Brown.cynthia@epa.gov

If you or your attorney have legal questions pertaining to this matter, please direct them to:

Mr. Edwin Quinones
Assistant Regional Counsel (6RC-S)
United States Environmental Protection Agency
Region 6
1445 Ross Avenue
Dallas, Texas 75202
Telephone: 214-665-8035
Fax: 214-665-6460
Quinones.edwin@epa.gov

The discussions of fact or law in this Notice are meant to help you understand CERCLA and the EPA's actions at the Site. The discussions of fact and law are not final positions on any matter discussed in this Notice.

U.S. OIL RECOVERY SUPERFUND SITE

ENCLOSURE B

EVIDENTIARY DOCUMENTATION

Attached please find a copy of one manifest or invoice for each entity receiving this
General Notice letter.

U.S. OIL RECOVERY SUPERFUND SITE

ENCLOSURE C

SMALL BUSINESS FACT SHEET



Office of Enforcement and Compliance Assurance
INFORMATION SHEET

U. S. EPA Small Business Resources

If you own a small business, the United States Environmental Protection Agency (EPA) offers a variety of compliance assistance and tools to assist you in complying with federal and state environmental laws. These resources can help you understand your environmental obligations, improve compliance and find cost-effective ways to comply through the use of pollution prevention and other innovative technologies.

Hotlines, Helplines and Clearinghouses

EPA sponsors approximately 89 free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements.

The National Environmental Compliance Assistance Clearinghouse provides quick access to compliance assistance tools, contacts, and planned activities from the U.S. EPA, states, and other compliance assistance providers:
www.epa.gov/clearinghouse

Pollution Prevention Clearinghouse
www.epa.gov/opptintr/library/ppicindex.htm

EPA's Small Business Ombudsman Hotline provides regulatory and technical assistance information.
(800) 368-5888

Emergency Planning and Community Right-To-Know Act
(800) 424-9346

National Response Center (to report oil and hazardous substance spills)
(800) 424-8802

Toxics Substances and Asbestos Information
(202) 554-1404

Safe Drinking Water
(800) 426-4791

Stratospheric Ozone Refrigerants Information
(800) 296-1996

Clean Air Technology Center
(919) 541-0800

Wetlands Helpline
(800) 832-7828

EPA Websites

EPA has several Internet sites that provide useful compliance assistance information and materials for small businesses. If you don't have access to the Internet at your business, many public libraries provide access to the Internet at minimal or no cost.

EPA's Home Page
www.epa.gov

Small Business Assistance Program
www.epa.gov/ttn/sbap

Compliance Assistance Home Page
www.epa.gov/compliance/assistance

Office of Enforcement and Compliance Assurance
www.epa.gov/compliance

Small Business Ombudsman
www.epa.gov/sbo

Innovative Programs for Environmental Performance
www.epa.gov/partners



U.S. EPA SMALL BUSINESS RESOURCES

Compliance Assistance Centers

In partnership with industry, universities, and other federal and state agencies, EPA has established Compliance Assistance Centers (Centers) that provide information targeted to industries with many small businesses. All Centers can be accessed at:
<http://www.assistancecenters.net>

Metal Finishing

(1-800-AT-NMFRC or www.nmfrc.org)

Printing

(1-888-USPNEAC or www.pneac.org)

Automotive Service and Repair

(1-888-GRN-LINK or www.ccar-greenlink.org)

Agriculture

(1-888-663-2155 or www.epa.gov/agriculture)

Printed Wiring Board Manufacturing

(1-734-995-4911 or www.pwbrc.org)

Chemical Industry

(1-800-672-6048 or www.chemalliance.org)

Transportation Industry

(1-888-459-0656 or www.transource.org)

Paints and Coatings

(1-800-286-6372 or www.paintcenter.org)

Construction Industry

(www.cicacenter.org)

Automotive Recycling Industry

(www.ecarcenter.org)

US / Mexico Border Environmental Issues

(www.bordercenter.org)

State Agencies

Many state agencies have established compliance assistance programs that provide on-site and other types of assistance. Contact your local state environmental agency for more information or call EPA's Small Business Ombudsman at (800)-368-5888 or visit the Small Business Environmental Homepage at <http://www.smallbiz-enviroweb.org>.

Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two policies that potentially apply to small businesses: The Small Business Policy (<http://www.epa.gov/compliance/incentives/smallbusiness>) and

Audit Policy (<http://www.epa.gov/compliance/incentives/auditing>).

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established an ombudsman ("SBREFA Ombudsman") and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The SBREFA Ombudsman will annually rate each agency's responsiveness to small businesses. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System (NAICS) designation, number of employees or annual receipts, defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community because the regulated community previously commented on its activities.

Your Duty to Comply

If you receive compliance assistance or submit comments to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act (SBREFA) or related provisions.

U.S. OIL RECOVERY SUPERFUND SITE

ENCLOSURE D

~~SMALL BUSINESS FACT SHEET~~

**ADMINISTRATIVE ORDER ON CONSENT
AND STATEMENT OF WORK**

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

FILED

2011 AUG 25 PM 2: 53

REGION 6

REGIONAL HEARING CLERK
EPA REGION VI

IN THE MATTER OF:
U.S. Oil Recovery Site
City of Pasadena, Harris County, Texas
List of Respondents in Attachment A,

ADMINISTRATIVE SETTLEMENT
AGREEMENT AND ORDER ON CONSENT
FOR REMOVAL ACTION

Respondents

U.S. EPA Region 6
CERCLA Docket No. 06-10-11

Proceeding Under Sections 104, 106(a), 107
and 122 of the Comprehensive Environmental
Response, Compensation, and Liability Act, as
amended, 42 U.S.C. §§ 9604, 9606(a), 9607
and 9622

I. JURISDICTION AND GENERAL PROVISIONS

1. This Administrative Settlement Agreement and Order on Consent ("Settlement Agreement") is entered into voluntarily by the United States Environmental Protection Agency ("EPA") and the Respondents listed in Attachment A, incorporated by reference herein, ("Respondents"). This Settlement Agreement provides for the performance of a removal action by Respondents and the reimbursement of certain response costs incurred by the United States at or in connection with the "U.S. Oil Recovery Site" (the "Site") generally located at 400 N. Richey St. and 200 N. Richey St., respectively, in Pasadena, Harris County, Texas.

2. This Settlement Agreement is issued under the authority vested in the President of the United States by Sections 104, 106(a), 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9604, 9606(a), 9607 and 9622, as amended ("CERCLA").

3. EPA has notified the State of Texas (the "State") of this action pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

4. EPA and Respondents recognize that this Settlement Agreement has been negotiated in good faith and that the actions undertaken by Respondents in accordance with this Settlement Agreement do not constitute an admission of any liability. Respondents do not admit, and retain the right to controvert in any subsequent proceedings other than proceedings to

implement or enforce this Settlement Agreement, the validity of the findings of facts, conclusions of law, and determinations in Sections IV and V of this Settlement Agreement. Respondents agree to comply with and be bound by the terms of this Settlement Agreement and further agree that they will not contest the basis or validity of this Settlement Agreement or its terms.

II. PARTIES BOUND

5. This Settlement Agreement applies to and is binding upon EPA and upon Respondents and their heirs, successors and assigns. Any change in ownership or corporate status of a Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter such Respondent's responsibilities under this Settlement Agreement.

6. Respondents are jointly and severally liable for carrying out all activities required by this Settlement Agreement. In the event of the insolvency or other failure of any one or more Respondents to implement the requirements of this Settlement Agreement, the remaining Respondents shall complete all such requirements.

7. Respondents shall ensure that their contractors, subcontractors, and representatives receive a copy of this Settlement Agreement and comply with this Settlement Agreement. Respondents shall be responsible for any noncompliance with this Settlement Agreement.

III. DEFINITIONS

8. Unless otherwise expressly provided in this Settlement Agreement, terms used in this Settlement Agreement which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Settlement Agreement or in the appendices attached hereto and incorporated hereunder, the following definitions shall apply:

a. "Action Memorandum" shall mean the EPA Action Memorandum relating to the Site signed on March 17, 2011, by the Superfund Division Director, EPA Region 6, or his/her delegate, and all attachments thereto. The "Action Memorandum" is attached as Attachment B.

b. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601, *et seq.*

c. "Day" shall mean a calendar day. In computing any period of time under this Settlement Agreement, where the last day would fall on a Saturday, Sunday, or Federal holiday, the period shall run until the close of business of the next working day.

d. "Effective Date" shall be the effective date of this Settlement Agreement as provided in Section XXXII.

e. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

f. "TCEQ" shall mean the Texas Commission on Environmental Quality and any success or departments or agencies of the State.

g. "Future Response Costs" shall mean all costs, including, but not limited to, direct and indirect costs, that the United States incurs in reviewing or developing plans, reports and other items pursuant to this Settlement Agreement, verifying the Work, or otherwise implementing, overseeing, or enforcing this Settlement Agreement, including but not limited to, payroll costs, contractor costs, travel costs, laboratory costs, the costs incurred pursuant to Paragraph 24 (costs and attorneys fees and any monies paid to secure access, including the amount of just compensation), and Paragraph 34 (emergency response), and Paragraph 59 (work takeover). Future Response Costs shall not mean any future costs not covered by the Statement of Work attached hereto, or for remediation of the Site should such remediation become necessary.

h. "Interest" shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.

i. "National Contingency Plan" or "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.

j. "Settlement Agreement" shall mean this Administrative Settlement Agreement and Order on Consent and all appendices attached hereto (listed in Section XXX). In the event of conflict between this Settlement Agreement and any appendix, this Settlement Agreement shall control.

k. "Paragraph" shall mean a portion of this Settlement Agreement identified by an Arabic numeral.

l. "Parties" shall mean EPA and Respondents.

m. "RCRA" shall mean the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901, *et seq.* (also known as the Resource Conservation and Recovery Act).

n. "Respondents" shall mean those Parties identified in Attachment A incorporated herein by reference and any additional Party(ies) who may enter into this Settlement Agreement in the future after its effective date.

o. "Section" shall mean a portion of this Settlement Agreement identified by a Roman numeral.

p. "Site" shall mean the U.S. Oil Recovery Superfund Site, encompassing approximately 18 total acres, located at the U.S. Oil Recovery facility at 400 N. Richey St. and the MCC Recycling facility at 200 N. Richey St., respectively in the City of Pasadena, Harris County, Texas and depicted generally on the map attached as Attachment C.

q. "State" shall mean the State of Texas.

r. "Statement of Work" or "SOW" shall mean the statement of work for implementation of the removal action, as set forth in Attachment D to this Settlement Agreement, and any modifications made thereto in accordance with this Settlement Agreement.

s. "Waste Material" shall mean 1) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); 2) any pollutant or contaminant under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); and 3) any "solid waste" under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27).

t. "Work" shall mean all activities Respondents are required to perform under this Settlement Agreement.

IV. FINDINGS OF FACT

9. Based on the facts set forth in the Action Memorandum and the Administrative Record, EPA makes the following findings of fact:

a. The US Oil Recovery ("USOR") and MCC Recycling ("MCC") facilities are respectively located at 400 North Richey Street and 200 North Richey Street in Pasadena, Texas 77506. The Site includes a warehouse, retention pond, and several containment areas throughout. USOR and/or MCC received municipal and industrial Class I and Class II wastewater, characteristically hazardous waste, used oil and oily sludges, and municipal solid waste. The Site property had been abandoned by the owner and operators in June of 2010, prior to the court appointed Receivership in July of 2010.

b. On July 1, 2010, the Texas Commission on Environmental Quality ("TCEQ") and Harris County Public Health and Environmental Services ("HCPHES") contacted the National Response Center ("NRC") and EPA hotlines requesting assistance in stabilizing the Site and managing a large volume of hazardous substances and waste in preparation for a significant weather season, based on the historical Site knowledge and the near proximity to Vince Bayou.

c. USOR had performed municipal and industrial wastewater pretreatment of Class I and Class II wastewater, characteristically hazardous waste, used oil and oily sludges, and municipal solid waste.

d. The USOR facility includes 225 (25 cubic yard) roll-off containers, approximately 797 (55 gallon) drums, approximately 212 (300 to 400 gallon) totes, approximately 24 (1,000 to 30,000 gallon) above ground storage tanks (ASTs) in varying degrees of operability located outside on the north end of the facility with secondary containments; an approximate 300,000 gallon capacity dual cell bioreactor in poor condition located on the northwest side of the property with approximately 3 to 4 feet of material (liquids, sludges, and solids) and structural damage (reportedly from March-April 2009), 2 (20,000 gallon) frac tanks in good condition, a large full retention pond on the west side of the property, and a parking lot with standing water between the office and the warehouse.

e. The MCC facility operated out of the USOR facility, but was located on both sides of Vince Bayou just southeast across the railroad tracks from USOR. The northeast section of MCC consisted of 2 clarifiers, 2 oxygen digesters, an oxygen activation sludge unit, an oxygen plant, a chlorination building, a lift station (1), a gravity thickener, an aerobic digester, a belt filter press building, a pump control room, and a chlorine contact tank (basin/concrete containment area). The southwest section of MCC consisted of a high rate trickling filter, an oil-water separator, a primary clarifier, a final clarifier, and lift stations (2). Additional fixtures are present at MCC but not listed (i.e. a documents building, etc.). No USOR or MCC representatives or employees were onsite or available to the responding EPA representatives prior to, during, or upon completion of the EPA response efforts with the only exception being the Receiver.

f. The Site has had three EPA emergency response actions taken. The first was in July 2010, the second in November 2010, and the third in January, 2011. EPA and its contractors performed preliminary assessments of the Site property on July 2, 2010 and again on November 9, 2010 and January 25, 2011. The preliminary assessments identified and observed the historic and on-going release of hazardous substances from the Site property, to wit: the waste receiving facility (USOR) and pretreatment facility (MCC).

g. On July 2, 2010 the EPA activated Emergency Rapid Response Services ("ERRS") contractors to the Site to contain off-site migration, mitigate the threat, and stabilize the Site. Containment actions included placement of booms and absorbent pads, use of pumps and 13 frac tanks, and establishing temporary staging areas for warehouse drums and totes following segregation. Mitigation actions included dropping containment content elevations to below overflow threat levels creating free-board or emptying completely, drum over-packing, drum and tote sampling and assessing by field hazard characterization analysis, drum and tote segregating and marking, securing roll-off containers (with tarps, bows, or poles as needed), and securing perimeter fencing (repaired section of damaged fence and replaced missing locks).

h. Contaminated site liquids that accumulated from overflowing roll-off containers, containments, secondary containments, the retention pond, unloading bays, leaking drums and totes, and the parking lot were shipped off-site and disposed of at the Inter Gulf Corporation facility in Pasadena, Texas. The total volume of contaminated liquids removed during EPA's three previous response actions was approximately 833,500 gallons. Some of the liquids were neutralized to bring the pH above pH 2.0 for disposal facility acceptance. Drums and totes inside the warehouse were marked according to field hazard characterization analyses, segregated, over-packed if necessary, and staged according to hazard class.

i. On November 8, 2010, the EPA On Scene Coordinator ("OSC") was contacted by TCEQ and requested additional response assistance at the USOR facilities to manage Site runoff of contaminated storm water. EPA activated ERRS contractors and Superfund Technical Assessment and Response Team ("START-3") contractors to mobilize to the Site, contain offsite migration, mitigate the threat, and stabilize the Site. Containment actions included placement of booms and absorbent pads, use of pumps and vacuum trucks, and shipment of liquids for disposal/fuels blending. Mitigation actions included dropping containment content elevations to below overflow threat levels creating free-board or emptying completely, drum and tote management, and containment spray wash where needed or practical.

Stabilization actions included reassessing and mitigating any potential threats at the USOR and MCC Site properties, respectively.

j. Contaminated liquids that accumulated from overflowing containments, secondary containments, unloading bays, leaking drums and totes, and the parking lot were shipped offsite and disposed of at the Inter Gulf Corporation facility in Pasadena, Texas. Some of the liquids were neutralized to bring the pH above pH 2.0 for disposal facility acceptance. Some liquids required treatment to address significant hydrogen sulfide levels prior to disposal facility acceptance. Drums and totes inside the warehouse were managed to continue appropriate segregation and containment. Containments and secondary containments that are open to the elements were emptied of liquids and sludges to minimize future overflow and offsite contamination. Sludges were sampled, transported, and disposed of accordingly at the Waste Management facility in Conroe, Texas and the US Ecology facility in Robstown, Texas, respectively.

k. Acetone was detected at 1,390 and 1,400 µg/L in samples collected from two uncontrolled releases at the MCC facility which were draining directly into Vince Bayou. Acetone was also detected in the water sample collected from the top 12 inches of water in the Retention Pond.

l. Benzene was detected at 18.9 and 46.4 µg/L in samples collected from two uncontrolled releases at the MCC facility which were draining directly into Vince Bayou. Benzene was also detected at 3.75 mg/L in a sludge sample collected from an AST in the north tank farm at the USOR facility.

m. Ethyl benzene was detected at 57.5 and 757 µg/L in samples collected from two uncontrolled releases at the MCC facility which were draining directly into Vince Bayou.

n. Toluene was detected at 70 and 258 µg/L in samples collected from two uncontrolled releases at the MCC facility which were draining directly into Vince Bayou.

o. Xylenes were detected at 426 and 4,320 µg/L in samples collected from two uncontrolled releases at the MCC facility which were draining directly into Vince Bayou.

p. Methyl ethyl ketone was detected at 203 and 198 µg/L in samples collected from two uncontrolled releases at the MCC facility which were draining directly into Vince Bayou. Methyl ethyl ketone was also detected at 0.695 mg/L in a sludge sample collected from an above-ground storage tank (AST) in the north tank farm at the USOR facility.

q. Hydrogen sulfide was detected as high as 1,000 ppm in the liquids recovered from the north tank farm at the USOR facility.

r. Sodium hydroxide was detected in an above-ground poly-tank at the USOR facility.

s. Over a period of time, each Respondent made transactions with the owner and/or operator of the USOR and/or the MCC facility to arrange and send for disposal or

treatment of solid and liquid wastes, used oil, waste oil and/or sludge containing one or more hazardous substances.

V. CONCLUSIONS OF LAW AND DETERMINATIONS

10. Based on the Findings of Fact set forth above and the Administrative Record supporting this removal action, EPA has determined that:

a. The U.S. Oil Recovery and MCC Site is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

b. The contamination found at the Site, as identified in the Findings of Fact above, includes "hazardous substances" as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

c. Each Respondent is a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

d. Each Respondent is a responsible party under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), and is jointly and severally liable for performance of a removal action and for response costs incurred and to be incurred for the removal action at the Site. Respondents arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment of hazardous substances at the facility, within the meaning of Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3).

e. The conditions described in Section IV (Findings of Fact) above constitute an actual or threatened "release" of a hazardous substance from the facility as defined by Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

f. The removal action required by this Settlement Agreement is necessary to protect the public health, welfare, or the environment and, if carried out in compliance with the terms of this Settlement Agreement, will be consistent with the NCP, as provided in Section 300.700(c)(3)(ii) of the NCP.

VI. SETTLEMENT AGREEMENT AND ORDER

Based upon the foregoing Findings of Fact, Conclusions of Law, Determinations, and the Administrative Record for this Site, it is hereby Ordered and Agreed that Respondents shall comply with all provisions of this Settlement Agreement, including, but not limited to, all attachments to this Settlement Agreement and all documents incorporated by reference into this Settlement Agreement.

VII. DESIGNATION OF CONTRACTOR, PROJECT COORDINATOR, AND ON-SCENE COORDINATOR

11. Respondents shall retain one or more contractors to perform the Work and shall notify EPA of the name(s) and qualifications of such contractor(s) within 20 days of the Effective Date. Respondents shall also notify EPA of the name(s) and qualification(s) of any

other contractor(s) or subcontractor(s) retained to perform the Work at least 10 days prior to commencement of such Work. EPA retains the right to disapprove of any or all of the contractors and/or subcontractors retained by Respondents. If EPA disapproves of a selected contractor, Respondents shall retain a different contractor and shall notify EPA of that contractor's name and qualifications within 14 days of EPA's disapproval. The proposed contractor must demonstrate compliance with ANSI/ASQC E-4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs" (American National Standard, January 5, 1995), by submitting a copy of the proposed contractor's Quality Management Plan ("QMP"). The QMP should be prepared in accordance with "EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B0-1/002), or equivalent documentation as required by EPA.

12. Within 15 days after the Effective Date, Respondents shall designate a Project Coordinator who shall be responsible for administration of all actions by Respondents required by this Settlement Agreement and shall submit to EPA the designated Project Coordinator's name, address, telephone number, and qualifications. To the greatest extent possible, the Project Coordinator shall be present on Site or readily available during Site work. EPA retains the right to disapprove of the designated Project Coordinator. If EPA disapproves of the designated Project Coordinator, Respondents shall retain a different Project Coordinator and shall notify EPA of that person's name, address, telephone number, and qualifications within 10 days following EPA's disapproval. Receipt by Respondents' Project Coordinator of any notice or communication from EPA relating to this Settlement Agreement shall constitute receipt by all Respondents.

13. EPA has designated Adam Adams of EPA Region 6, as its On-Scene Coordinator ("OSC"). Except as otherwise provided in this Settlement Agreement, Respondents shall direct all submissions required by this Settlement Agreement to the OSC at US EPA Region 6, 6SF-PR, 1445 Ross Ave., Dallas, TX 75202 and electronically at adams.adam@epa.gov.

14. EPA and Respondents shall have the right, subject to Paragraph 12, to change their respective designated OSC or Project Coordinator. Respondents shall notify EPA 7 days before such a change is made. The initial notification may be made orally, but shall be promptly followed by a written notice.

VIII. WORK TO BE PERFORMED

15. Respondents shall perform, at a minimum, all actions necessary to implement the Statement of Work ("SOW", Attachment D), hereby incorporated by reference and made a part of this Settlement Agreement. The actions to be implemented generally include, but are not limited to, the activities listed in the SOW, such as bi-weekly site visits, site facility perimeter security, and the pump-down and removal of the liquid and material contained within the secondary containment if less than four (4) inches of free-board is observed within the containment.

16. Work Plan and Implementation.

a. Within 15 days following EPA's approval of a contractor and Project Coordinator, pursuant to Paragraphs 11 and 12 of this Settlement Agreement, Respondents shall submit to EPA for approval a draft Work Plan for performing the removal action generally described in Paragraph 15 above. The draft Work Plan shall provide a description of, and an expeditious schedule for, the actions required by this Settlement Agreement. Respondents shall prepare a Quality Assurance Project Plan ("QAPP") as part of the Work Plan. The QAPP shall be prepared in accordance with "EPA Requirements for Quality Assurance Project Plans (QA/R-5)" (EPA/240/B-01/003, March 2001), and "EPA Guidance for Quality Assurance Project Plans (QA/G-5)" (EPA/600/R-98/018, February 1998).

b. EPA may approve, disapprove, require revisions to, or modify the draft Work Plan in whole or in part. If EPA requires revisions, Respondents shall submit a revised draft Work Plan within 15 days of receipt of EPA's notification of the required revisions. Respondents shall implement the Work Plan as approved in writing by EPA in accordance with the schedule approved by EPA. Once approved, or approved with modifications, the Work Plan, the schedule, and any subsequent modifications shall be incorporated into and become fully enforceable under this Settlement Agreement.

c. Respondents shall not commence any Work except in conformance with the terms of this Settlement Agreement. Respondents shall not commence implementation of the Work Plan developed hereunder until receiving written EPA approval pursuant to Paragraph 15(b).

17. Health and Safety Plan. Within 15 days following EPA's approval of a contractor and Project Coordinator, pursuant to Paragraphs 11 and 12 of this Settlement Agreement, Respondents shall submit for EPA review and comment a plan that ensures the protection of the public health and safety during performance of on-Site work under this Settlement Agreement. This plan shall be prepared in accordance with EPA's Standard Operating Safety Guide (PUB 9285.1-03, PB 92-963414, June 1992). In addition, the plan shall comply with all currently applicable Occupational Safety and Health Administration ("OSHA") regulations found at 29 C.F.R. Part 1910. If EPA determines that it is appropriate, the plan shall also include contingency planning. Respondents shall incorporate all changes to the plan recommended by EPA and shall implement the plan during the pendency of the removal action.

18. Emergency Response Plan. Within 15 days following EPA's approval of a contractor and Project Coordinator, pursuant to Paragraphs 11 and 12 of this Settlement Agreement, Respondents shall submit for EPA review and comment a plan that ensures emergency contingency efforts at the Site. This plan shall include emergency contingency measures in the event of an incident at the Site, such as, but not limited to, a tank collapse, explosion, emergency ambulatory evacuation, and/or train derailment at or near the Site.

19. Quality Assurance and Sampling.

a. All sampling and analyses performed pursuant to this Settlement Agreement shall conform to EPA direction, approval, and guidance regarding sampling, quality assurance/quality control ("QA/QC"), data validation, and chain of custody procedures. Respondents shall ensure that the laboratory used to perform the analyses participates in a

QA/QC program that complies with the appropriate EPA guidance. Respondents shall follow, as appropriate, "Quality Assurance/Quality Control Guidance for Removal Activities: Sampling QA/QC Plan and Data Validation Procedures" (OSWER Directive No. 9360.4-01, April 1, 1990), as guidance for QA/QC and sampling. Respondents shall only use laboratories that have a documented Quality System that complies with ANSI/ASQC E-4 1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs" (American National Standard, January 5, 1995), and "EPA Requirements for Quality Management Plans (QA/R-2) (EPA/240/B-01/002, March 2001)," or equivalent documentation as determined by EPA. EPA may consider laboratories accredited under the National Environmental Laboratory Accreditation Program ("NELAP") as meeting the Quality System requirements.

b. Upon request by EPA, Respondents shall have such a laboratory analyze samples submitted by EPA for QA monitoring. Respondents shall provide to EPA the QA/QC procedures followed by all sampling teams and laboratories performing data collection and/or analysis.

c. Upon request by EPA, Respondents shall allow EPA or its authorized representatives to take split and/or duplicate samples. Respondents shall notify EPA not less than 5 days in advance of any sample collection activity, unless shorter notice is agreed to by EPA. EPA shall have the right to take any additional samples that EPA deems necessary. Upon request, EPA shall allow Respondents to take split or duplicate samples of any samples it takes as part of its oversight of Respondents' implementation of the Work.

20. Post-Removal Site Control. In accordance with the Work Plan schedule, or as otherwise directed by EPA, Respondents shall submit a proposal for post-removal site control consistent with Section 300.415(i) of the NCP and OSWER Directive No. 9360.2-02. Upon EPA approval, Respondents shall implement such controls and shall provide EPA with documentation of all post-removal site control arrangements.

21. Reporting.

a. Respondents shall submit a written progress report to EPA concerning actions undertaken pursuant to this Settlement Agreement on a monthly basis after the date of receipt of EPA's approval of the Work Plan until termination of this Settlement Agreement, unless otherwise directed in writing by the OSC. These reports shall describe all significant developments during the preceding period, including the actions performed and any problems encountered, analytical data received during the reporting period, and the developments anticipated during the next reporting period, including a schedule of actions to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

b. Respondents shall submit 2 copies of all plans, reports or other submissions required by this Settlement Agreement, the Statement of Work, or any approved work plan. Upon request by EPA, Respondents shall submit such documents in electronic form.

22. Final Report. Within 30 days after completion of all Work required by this Settlement Agreement, Respondents shall submit for EPA review a final report summarizing the

actions taken to comply with this Settlement Agreement. The final report shall conform, at a minimum, with the requirements set forth in Section 300.165 of the NCP entitled "OSC Reports." The final report shall include a good faith estimate of total costs or a statement of actual costs incurred in complying with the Settlement Agreement, a listing of quantities and types of materials removed off-Site or handled on-Site, a discussion of removal and disposal options considered for those materials, a listing of the ultimate destination(s) of those materials, a presentation of the analytical results of all sampling and analyses performed, and accompanying appendices containing all relevant documentation generated during the removal action (e.g., manifests, invoices, bills, contracts, and permits). The final report shall also include the following certification signed by a person who supervised or directed the preparation of that report:

"Under penalty of law, I certify that to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of the report, the information submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

23. Off-Site Shipments.

a. Respondents shall, prior to any shipment of Waste Material, not including Stormwater ("Off-Site Shipments") from the Site to an out-of-state waste management facility, provide written notification of such shipment of Waste Material to the appropriate state environmental official in the receiving facility's state and to the On-Scene Coordinator. However, this notification requirement shall not apply to any off-Site shipments when the total volume of all such shipments will not exceed 10 cubic yards.

i. Respondents shall include in the written notification the following information: 1) the name and location of the facility to which the Waste Material is to be shipped; 2) the type and quantity of the Waste Material to be shipped; 3) the expected schedule for the shipment of the Waste Material; and 4) the method of transportation. Respondents shall notify the state in which the planned receiving facility is located of major changes in the shipment plan, such as a decision to ship the Waste Material to another facility within the same state, or to a facility in another state.

ii. The identity of the receiving facility and state will be determined by Respondents following the award of the contract for the removal action. Respondents shall provide the information required by Paragraph 23(a) and 23(b) as soon as practicable after the award of the contract and before the Waste Material is actually shipped.

b. Before shipping any hazardous substances, pollutants, or contaminants from the Site to an off-site location, Respondents shall obtain EPA's certification that the proposed receiving facility is operating in compliance with the requirements of CERCLA Section 121(d)(3), 42 U.S.C. § 9621(d)(3), and 40 C.F.R. § 300.440. Respondents shall only send hazardous substances, pollutants, or contaminants from the Site to an off-site facility that complies with the requirements of the statutory provision and regulation cited in the preceding sentence.

IX. SITE ACCESS

24. Where any action under this Settlement Agreement is to be performed in areas owned by or in possession of someone other than Respondents, Respondents shall use their best efforts to obtain all necessary access agreements within 20 days after the Effective Date, or as otherwise specified in writing by the OSC. Respondents shall immediately notify EPA if, after using their best efforts, they are unable to obtain such agreements. For purposes of this Paragraph, "best efforts" includes the payment of reasonable sums of money in consideration of access, but does not include the payment of \$350.00 per hour to the current U.S. Oil Recovery Receiver or a monthly fee of \$1500.00 to the Receiver. Respondents shall describe in writing their efforts to obtain access. EPA may then assist Respondents in gaining access, to the extent necessary to effectuate the response actions described in this Settlement Agreement, using such means as EPA deems appropriate. Respondents shall reimburse EPA for all costs and attorney's fees incurred by the United States in obtaining such access, in accordance with the procedures in Section XV (Payment of Response Costs).

25. Notwithstanding any provision of this Settlement Agreement, EPA and the State retain all of their access authorities and rights, including enforcement authorities related thereto, under CERCLA, RCRA, and any other applicable statutes or regulations.

X. ACCESS TO INFORMATION

26. Respondents shall provide to EPA and the State, upon request, copies of all documents and information within their possession or control or that of their contractors or agents relating to activities at the Site or to the implementation of this Settlement Agreement, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information related to the Work. Respondents shall also make available to EPA and the State, for purposes of investigation, information gathering, or testimony, their employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Work.

27. Respondents may assert business confidentiality claims covering part or all of the documents or information submitted to EPA under this Settlement Agreement to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b). Documents or information determined to be confidential by EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies documents or information when they are submitted to EPA, or if EPA has notified Respondents that the documents or information are not confidential under the standards of Section 104(e)(7) of CERCLA or 40 C.F.R. Part 2, Subpart B, the public may be given access to such documents or information without further notice to Respondents.

28. Respondents may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If the Respondents assert such a privilege in lieu of providing documents, they shall provide EPA with the following: 1) the title of the document, record, or information; 2) the date of the document, record, or information; 3) the name and title of the author of the document, record, or information; 4) the name and title of each addressee and recipient; 5) a description of the

contents of the document, record, or information; and 6) the privilege asserted by Respondents. However, no documents, reports or other information created or generated pursuant to the requirements of this Settlement Agreement shall be withheld on the grounds that they are privileged.

29. No claim of confidentiality shall be made with respect to any data, including, but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or engineering data, or any other documents or information evidencing conditions at or around the Site.

XI. RECORD RETENTION

30. Until 10 years after Respondents' receipt of EPA's notification pursuant to Section XXIX (Notice of Completion of Work), each Respondent shall preserve and retain all non-identical copies of records and documents (including records or documents in electronic form) now in its possession or control or which come into its possession or control that relate in any manner to the performance of the Work or the liability of any person under CERCLA with respect to the Site, regardless of any corporate retention policy to the contrary. Until 10 years after Respondents' receipt of EPA's notification pursuant to Section XXIX (Notice of Completion of Work), Respondents shall also instruct their contractors and agents to preserve all documents, records, and information of whatever kind, nature or description relating to performance of the Work.

31. At the conclusion of this document retention period, Respondents shall notify EPA and the State at least 90 days prior to the destruction of any such records or documents, and, upon request by EPA or the State, Respondents shall deliver any such records or documents to EPA or the State. Respondents may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Respondents assert such a privilege, they shall provide EPA or the State with the following: 1) the title of the document, record, or information; 2) the date of the document, record, or information; 3) the name and title of the author of the document, record, or information; 4) the name and title of each addressee and recipient; 5) a description of the subject of the document, record, or information; and 6) the privilege asserted by Respondents. However, no documents, reports or other information created or generated pursuant to the requirements of this Settlement Agreement shall be withheld on the grounds that they are privileged.

32. Each Respondent hereby certifies individually that to the best of its knowledge and belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed or otherwise disposed of any records, documents or other information (other than identical copies) relating to its potential liability regarding the Site since notification of potential liability by EPA or the filing of suit against it regarding the Site and that it has fully complied with any and all EPA requests for information pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927.

XII. COMPLIANCE WITH OTHER LAWS

33. Respondents shall perform all actions required pursuant to this Settlement Agreement in accordance with all applicable state and federal laws and regulations except as provided in Section 121(e) of CERCLA, 42 U.S.C. § 6921(e), and 40 C.F.R. §§ 300.400(e) and 300.415(j). In accordance with 40 C.F.R. § 300.415(j), all on-Site actions required pursuant to this Settlement Agreement shall, to the extent practicable, as determined by EPA, considering the exigencies of the situation, attain applicable or relevant and appropriate requirements ("ARARs") under federal environmental or state environmental or facility siting laws. Respondents shall identify ARARs in the Work Plan subject to EPA approval.

XIII. EMERGENCY RESPONSE AND NOTIFICATION OF RELEASES

34. In the event of any action or occurrence during performance of the Work which causes or threatens a release of Waste Material from the Site that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Respondents shall immediately take all appropriate action. Respondents shall take these actions in accordance with all applicable provisions of this Settlement Agreement, including, but not limited to, the Health and Safety Plan, in order to prevent, abate or minimize such release or endangerment caused or threatened by the release. Respondents shall also immediately notify the OSC or, in the event of his/her unavailability, the Regional Phone Duty Officer at (866)-372-7745, of the incident or Site conditions. In the event that Respondents fail to take appropriate response action as required by this Paragraph, and EPA takes such action instead, Respondents shall reimburse EPA all costs of the response action not inconsistent with the NCP pursuant to Section XV (Payment of Response Costs).

35. In addition, in the event of any release of a hazardous substance from the Site, Respondents shall immediately notify the OSC at (214) 665-2779 and the National Response Center at (800) 424-8802. Respondents shall submit a written report to EPA within 7 days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. This reporting requirement is in addition to, and not in lieu of, reporting under Section 103(c) of CERCLA, 42 U.S.C. § 9603(c), and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. § 11004, *et seq.*

XIV. AUTHORITY OF ON-SCENE COORDINATOR

36. The OSC shall be responsible for overseeing Respondents' implementation of this Settlement Agreement. The OSC shall have the authority vested in an OSC by the NCP, including the authority to halt, conduct, or direct any Work required by this Settlement Agreement, or to direct any other removal action undertaken at the Site. Absence of the OSC from the Site shall not be cause for stoppage of work unless specifically directed by the OSC.

XV. PAYMENT OF RESPONSE COSTS

37. Payment for Past Response Costs. Although past response costs are not sought in this Settlement Agreement, the EPA hereby reserves its right to seek past response costs in any subsequent administrative and/or judicial settlement agreement or action.

38. Payments for Future Response Costs.

a. Respondents shall pay EPA all Future Response Costs not inconsistent with the NCP. On a periodic basis, EPA will send Respondents a bill requiring payment that includes a Superfund Itemized Cost Summary, which includes direct and indirect costs incurred by EPA and its contractors. Respondents shall make all payments within 30 days of receipt of each bill requiring payment, except as otherwise provided in Paragraph 39 of this Settlement Agreement.

b. Respondents shall make all payments required by this Paragraph by a certified or cashier's check or checks made payable to "EPA Hazardous Substance Superfund," referencing the name and address of the party(ies) making payment and EPA Site/Spill ID number A6X7. Respondents shall send the check(s) to:

EPA Superfund U.S. Oil Recovery Superfund Site (A6X7)
CERCLIS ID # TXN000607093
US Environmental Protection Agency Superfund Payments
Cincinnati Finance Center
PO Box 979076
St. Louis, MO 63197-9000

c. At the time of payment, Respondents shall send notice that payment has been made to the email address at acctsreceivable.cinwd@epa.gov, and to:

EPA Cincinnati Finance Office
26 Martin Luther King Drive
Cincinnati, Ohio 45268

d. The total amount to be paid by Respondents pursuant to Paragraph 38(a) shall be deposited by EPA in the U.S. Oil Recovery and MCC Superfund Site Special Account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Site.

39. In the event that the payment for Future Response Costs is not made within 30 days of Respondents' receipt of a bill, Respondents shall pay Interest on the unpaid balance. The Interest on Future Response Costs shall begin to accrue on the date of the bill and shall continue to accrue until the date of payment. Payments of Interest made under this Paragraph shall be in addition to such other remedies or sanctions available to the United States by virtue of Respondents' failure to make timely payments under this Section, including but not limited to, payment of stipulated penalties pursuant to Section XVIII.

40. Respondents may contest payment of any Future Response Costs billed under Paragraph 38 if they determine that EPA has made a mathematical error, or if they believe EPA incurred excess costs as a direct result of an EPA action that was inconsistent with the NCP. Such objection shall be made in writing within 30 days of receipt of the bill and must be sent to the OSC. Any such objection shall specifically identify the contested Future Response Costs and the basis for objection. In the event of an objection, Respondents shall, within the 30-day period,

pay all uncontested Future Response Costs to EPA in the manner described in Paragraph 38. Simultaneously, Respondents shall establish an interest-bearing escrow account in a federally-insured bank duly chartered in the State of Texas and remit to that escrow account funds equivalent to the amount of the contested Future Response Costs. Respondents shall send to the EPA OSC a copy of the transmittal letter and check paying the uncontested Future Response Costs, and a copy of the correspondence that establishes and funds the escrow account, including, but not limited to, information containing the identity of the bank and bank account under which the escrow account is established as well as a bank statement showing the initial balance of the escrow account. Simultaneously with establishment of the escrow account, Respondents shall initiate the Dispute Resolution procedures in Section XVI (Dispute Resolution). If EPA prevails in the dispute, within 5 days of the resolution of the dispute, Respondents shall pay the sums due (with accrued interest) to EPA in the manner described in Paragraph 38. If Respondents prevail concerning any aspect of the contested costs, Respondents shall pay that portion of the costs (plus associated accrued interest) for which they did not prevail to EPA in the manner described in Paragraph 38. Respondents shall be disbursed any balance of the escrow account. The dispute resolution procedures set forth in this Paragraph in conjunction with the procedures set forth in Section XVI (Dispute Resolution) shall be the exclusive mechanisms for resolving disputes regarding Respondents' obligation to reimburse EPA for its Future Response Costs.

XVI. DISPUTE RESOLUTION

41. Unless otherwise expressly provided for in this Settlement Agreement, the dispute resolution procedures of this Section shall be the exclusive mechanism for resolving disputes arising under this Settlement Agreement. The Parties shall attempt to resolve any disagreements concerning this Settlement Agreement expeditiously and informally.

42. If Respondents object to any EPA action taken pursuant to this Settlement Agreement, including billings for Future Response Costs, they shall notify EPA in writing of their objection(s) within 5 days of such action, unless the objection(s) has/have been resolved informally. EPA and Respondents shall have 30 days from EPA's receipt of Respondents' written objection(s) to resolve the dispute through formal negotiations (the "Negotiation Period"). The Negotiation Period may be extended at the sole discretion of EPA.

43. Any agreement reached by the parties pursuant to this Section shall be in writing and shall, upon signature by both parties, be incorporated into and become an enforceable part of this Settlement Agreement. If the Parties are unable to reach an agreement within the Negotiation Period, an EPA management official at the Division Director level or higher will issue a written decision on the dispute to Respondents. EPA's decision shall be incorporated into and become an enforceable part of this Settlement Agreement. Respondents' obligations under this Settlement Agreement shall not be tolled by submission of any objection for dispute resolution under this Section unless otherwise agreed to by EPA in its sole discretion. Following resolution of the dispute, as provided by this Section, Respondents shall fulfill the requirement that was the subject of the dispute in accordance with the agreement reached or with EPA's decision, whichever occurs.

XVII. FORCE MAJEURE

44. Respondents agree to perform all requirements of this Settlement Agreement within the time limits established under this Settlement Agreement, unless the performance is delayed by a *force majeure*. For purposes of this Settlement Agreement, a *force majeure* is defined as any event arising from causes beyond the control of Respondents, or of any entity controlled by Respondents, including but not limited to their contractors and subcontractors, which delays or prevents performance of any obligation under this Settlement Agreement despite Respondents' best efforts to fulfill the obligation. *Force majeure* does not include financial inability to complete the Work, increased cost of performance, or a failure to attain performance standards/action levels set forth in the Action Memorandum.

45. If any event occurs or has occurred that may delay the performance of any obligation under this Settlement Agreement, whether or not caused by a *force majeure* event, Respondents shall notify EPA orally within 24 hours of when Respondents first knew that the event might cause a delay. Within 3 days thereafter, Respondents shall provide to EPA in writing an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Respondents' rationale for attributing such delay to a *force majeure* event if they intend to assert such a claim; and a statement as to whether, in the opinion of Respondents, such event may cause or contribute to an endangerment to public health, welfare or the environment. Failure to comply with the above requirements shall preclude Respondents from asserting any claim of *force majeure* for that event for the period of time of such failure to comply and for any additional delay caused by such failure.

46. If EPA agrees that the delay or anticipated delay is attributable to a *force majeure* event, the time for performance of the obligations under this Settlement Agreement that are affected by the *force majeure* event will be extended by EPA for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the *force majeure* event shall not, of itself, extend the time for performance of any other obligation. If EPA does not agree that the delay or anticipated delay has been or will be caused by a *force majeure* event, EPA will notify Respondents in writing of its decision. If EPA agrees that the delay is attributable to a *force majeure* event, EPA will notify Respondents in writing of the length of the extension, if any, for performance of the obligations affected by the *force majeure* event.

XVIII. STIPULATED PENALTIES

47. Respondents shall be liable to EPA for stipulated penalties in the amounts set forth in Paragraphs 48 and 49 for failure to comply with the requirements of this Settlement Agreement specified below, unless excused under Section XVII (*Force Majeure*). "Compliance" by Respondents shall include completion of the activities under this Settlement Agreement or any work plan or other plan approved under this Settlement Agreement identified below in accordance with all applicable requirements of law, this Settlement Agreement, the SOW, and any plans or other documents approved by EPA pursuant to this Settlement

Agreement and within the specified time schedules established by and approved under this Settlement Agreement.

48. Stipulated Penalty Amounts - Work.

a. The following stipulated penalties shall accrue per violation per day for any noncompliance identified in Paragraph 48(b):

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$1,000	1st through 14th day
\$2,000	15th through 30th day
\$4,000	31st day and beyond

b. Compliance Milestones

- i. Submittal of the Work Plan
- ii. Commencement of work pursuant to the schedules listed in the Statement of Work
- iii. Completion of work under the Statement of Work and the Work Plan schedules.

49. Penalty Amounts - Reports. The following stipulated penalties shall accrue per violation per day for failure to submit timely or adequate reports or other written documents pursuant to Paragraphs 21-23:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$ 500	1st through 14th day
\$1,000	15th through 30th day
\$1,500	31st day and beyond

50. In the event that EPA assumes performance of a portion or all of the Work pursuant to Paragraph 59 of Section XX, Respondents shall be liable for a stipulated penalty in the amount of \$250,000.

51. All penalties shall begin to accrue on the day after the complete performance is due or the day a violation occurs, and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity. However, stipulated penalties shall not accrue: 1) with respect to a deficient submission under Section VIII (Work to be Performed), during the period, if any, beginning on the 31st day after EPA's receipt of such submission until the date that EPA notifies Respondents of any deficiency; and 2) with respect to a decision by the EPA Management Official at the Division Director level or higher, under Paragraph 43 of Section XVI (Dispute Resolution), during the period, if any, beginning on the 21st day after the Negotiation Period begins until the date that the EPA management official issues a final decision regarding such dispute. Nothing in this Settlement Agreement shall prevent the simultaneous accrual of separate penalties for separate violations of this Settlement Agreement.

52. Following EPA's determination that Respondents have failed to comply with a requirement of this Settlement Agreement, EPA may give Respondents written notification of the failure and describe the noncompliance. EPA may send Respondents a written demand for payment of the penalties. However, penalties shall accrue as provided in the preceding Paragraph regardless of whether EPA has notified Respondents of a violation unless otherwise agreed to by EPA in its sole discretion.

53. All penalties accruing under this Section shall be due and payable to EPA within 30 days of Respondents' receipt from EPA of a demand for payment of the penalties, unless Respondents invoke the dispute resolution procedures under Section XVI (Dispute Resolution). All payments to EPA under this Section shall be paid by certified or cashier's check(s) made payable to "EPA Hazardous Substances Superfund," shall be mailed to the U.S. Environmental Protection Agency, Superfund Payments, Cincinnati Finance Center, P.O. Box 979076, St. Louis, MO 63197-9000, shall indicate that the payment is for stipulated penalties, and shall reference the EPA Region and Site/Spill ID Number A6X7, the EPA Docket Number _____, and the name and address of the party(ies) making payment. Copies of check(s) paid pursuant to this Section, and any accompanying transmittal letter(s), shall be sent to EPA as provided in Paragraph 38(c).

54. Penalties shall continue to accrue during any dispute resolution period, but need not be paid until 15 days after the dispute is resolved by agreement or by receipt of EPA's decision unless otherwise agreed to by EPA in its sole discretion. The payment of penalties shall not alter in any way Respondents' obligation to complete performance of the Work required under this Settlement Agreement.

55. If Respondents fail to pay stipulated penalties when due, EPA may institute proceedings to collect the penalties, as well as Interest. Respondents shall pay Interest on the unpaid balance, which shall begin to accrue on the date of demand made pursuant to Paragraph 53. Nothing in this Settlement Agreement shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondents' violation of this Settlement Agreement or of the statutes and regulations upon which it is based, including, but not limited to, penalties pursuant to Sections 106(b) and 122(l) of CERCLA, 42 U.S.C. §§ 9606(b) and 9622(l), and punitive damages pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Provided, however, that EPA shall not seek civil penalties pursuant to Section 106(b) or 122(l) of CERCLA or punitive damages pursuant to Section 107(c)(3) of CERCLA for any violation for which a stipulated penalty is provided in this Section, except in the case of a willful violation of this Settlement Agreement or in the event that EPA assumes performance of a portion or all of the Work pursuant to Section XX, Paragraph 59. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this Settlement Agreement.

XIX. COVENANT NOT TO SUE BY EPA

56. In consideration of the actions that will be performed and the payments that will be made by Respondents under the terms of this Settlement Agreement, and except as otherwise specifically provided in this Settlement Agreement, EPA covenants not to sue or to take

administrative action against Respondents pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), for the Work and Future Response Costs. This covenant not to sue shall take effect upon the Effective Date and is conditioned upon the complete and satisfactory performance by Respondents of all obligations under this Settlement Agreement, including, but not limited to, payment of Future Response Costs pursuant to Section XV. This covenant not to sue extends only to Respondents and does not extend to any other person.

XX. RESERVATIONS OF RIGHTS BY EPA

57. Except as specifically provided in this Settlement Agreement, nothing in this Settlement Agreement shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants; or hazardous or solid waste on, at, or from the Site. Further, nothing in this Settlement Agreement shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Settlement Agreement, from taking other legal or equitable action as it deems appropriate and necessary, or from requiring Respondents in the future to perform additional removal activities pursuant to CERCLA or any other applicable law.

58. The covenant not to sue set forth in Section XIX above does not pertain to any matters other than those expressly identified therein. EPA reserves, and this Settlement Agreement is without prejudice to, all rights against Respondents with respect to all other matters, including, but not limited to:

- a. claims based on a failure by Respondents to meet a requirement of this Settlement Agreement;
- b. liability for costs not included within the definition Future Response Costs;
- c. liability for performance of response action other than the Work;
- d. criminal liability;
- e. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;
- f. liability arising from the past, present, or future disposal, release or threat of release of Waste Materials outside of the Site; and
- g. liability for costs incurred or to be incurred by the Agency for Toxic Substances and Disease Registry related to the Site.

59. Work Takeover. In the event EPA determines that Respondents have ceased implementation of any portion of the Work, are seriously or repeatedly deficient or late in their performance of the Work, or are implementing the Work in a manner which may cause an endangerment to human health or the environment, EPA may assume the performance of all or any portion of the Work as EPA determines necessary. Respondents may invoke the procedures

set forth in Section XVI (Dispute Resolution) to dispute EPA's determination that takeover of the Work is warranted under this Paragraph. Costs incurred by the United States in performing the Work pursuant to this Paragraph shall be considered Future Response Costs that Respondents shall pay pursuant to Section XV (Payment of Response Costs). Notwithstanding any other provision of this Settlement Agreement, EPA retains all authority and reserves all rights to take any and all response actions authorized by law.

XXI. COVENANT NOT TO SUE BY RESPONDENTS

60. Respondents covenant not to sue and agree not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the Work, Future Response Costs, or this Settlement Agreement, including, but not limited to:

a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund established by 26 U.S.C. § 9507, based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

b. any claim arising out of response actions at or in connection with the Site, including any claim under the United States Constitution, the Texas Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law; or

c. any claim against the United States pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to the Work or Future Response Costs unless the United States or department or agency of the United States is identified as a "Potentially Responsible Party" at the Site.

61. Nothing in this Agreement shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

62. Respondents agree not to seek judicial review of the final rule listing the Site on the NPL, if it is proposed to be listed, based on a claim that changed site conditions that resulted from the performance of the Work in any way affected the basis for listing the Site.

63. Respondents agree not to assert any claims and to waive all claims or causes of action that they may have for all matters relating to the Site, including for contribution, against any person where the person's liability to Respondents with respect to the Site is based solely on having arranged for disposal or treatment, or for transport for disposal or treatment, of hazardous substances at the Site, or having accepted for transport for disposal or treatment of hazardous substances at the Site, if all or part of the disposal, treatment, or transport occurred before April 1, 2001, and the total amount of material containing hazardous substances contributed by such person to the Site was less than 110 gallons of liquid materials or 200 pounds of solid materials.

64. The waiver in Paragraph 63 shall not apply with respect to any defense, claim, or cause of action that a Respondent may have against any person meeting the above criteria if such person asserts a claim or cause of action relating to the Site against such Respondent. This

waiver also shall not apply to any claim or cause of action against any person meeting the above criteria if EPA determines:

a. that such person has failed to comply with any EPA requests for information or administrative subpoenas issued pursuant to Section 104(e) or 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) or 9622(e), or Section 3007 of the Solid Waste Disposal Act (also known as the Resource Conservation and Recovery Act or "RCRA"), 42 U.S.C. § 6972, or has impeded or is impeding, through action or inaction, the performance of a response action or natural resource restoration with respect to the Site, or has been convicted of a criminal violation for the conduct to which this waiver would apply and that conviction has not been vitiated on appeal or otherwise; or

b. that the materials containing hazardous substances contributed to the Site by such person have contributed significantly, or could contribute significantly, either individually or in the aggregate, to the cost of response action or natural resource restoration at the Site.

XXII. OTHER CLAIMS

65. By issuance of this Settlement Agreement, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondents. The United States or EPA shall not be deemed a party to any contract entered into by Respondents or their directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out actions pursuant to this Settlement Agreement.

66. Except as expressly provided in Section XIX (Covenant Not to Sue by EPA), nothing in this Settlement Agreement constitutes a satisfaction of or release from any claim or cause of action against any person not a party to this Settlement Agreement, for any liability such person may have under CERCLA other statutes, or common law, including but not limited to any claims of the United States for costs, damages and interest under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607.

67. No action or decision by EPA pursuant to this Settlement Agreement shall give rise to any right to judicial review, except as set forth in Section 113(h) of CERCLA, 42 U.S.C. § 9613(h).

68. a. Respondents have the right to challenge, through the Dispute Resolution Procedure in Section XVI herein, any EPA cost or action which Respondents allege is inconsistent with CERCLA or the NCP.

b. Nothing in this Settlement Agreement shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership, subsidiary or corporation not a signatory to this Settlement Agreement for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release or disposal of any hazardous substances, pollutants or contaminants found at, taken to, or taken from the Site. As such, the EPA and the Respondents reserve their respective rights to take any action for

recovery from non settling potentially responsible parties and de minimis parties for all past and future response costs.

XXIII. CONTRIBUTION

69. a. The Parties agree that this Settlement Agreement constitutes an administrative settlement for purposes of Sections 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), and that Respondents are entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), for "matters addressed" in this Settlement Agreement. The "matters addressed" in this Settlement Agreement are the Work and Future Response Costs.

b. The Parties agree that this Settlement Agreement constitutes an administrative settlement for purposes of Sections 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B), pursuant to which Respondents have, as of the Effective Date, resolved their liability to the United States for the Work and Future Response Costs.

XXIV. INDEMNIFICATION

70. Respondents shall indemnify, save and hold harmless the United States, its officials, agents, contractors, subcontractors, employees and representatives from any and all claims or causes of action arising from, or on account of, negligent or other wrongful acts or omissions of Respondents, their officers, directors, employees, agents, contractors, or subcontractors, in carrying out actions pursuant to this Settlement Agreement. In addition, Respondents agree to pay the United States all costs incurred by the United States, including but not limited to attorneys fees and other expenses of litigation and settlement, arising from or on account of claims made against the United States based on negligent or other wrongful acts or omissions of Respondents, their officers, directors, employees, agents, contractors, subcontractors and any persons acting on their behalf or under their control, in carrying out activities pursuant to this Settlement Agreement. The United States shall not be held out as a party to any contract entered into by or on behalf of Respondents in carrying out activities pursuant to this Settlement Agreement. Neither Respondents nor any such contractor shall be considered an agent of the United States.

71. The United States shall give Respondents notice of any claim for which the United States plans to seek indemnification pursuant to this Section and shall consult with Respondents prior to settling such claim.

72. Respondents waive all claims against the United States for damages or reimbursement or for set-off of any payments made or to be made to the United States, arising from or on account of any contract, agreement, or arrangement between any one or more of Respondents and any person for performance of Work on or relating to the Site, including, but not limited to, claims on account of construction delays. In addition, Respondents shall indemnify and hold harmless the United States with respect to any and all claims for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between any one or more of Respondents and any person for performance of Work on or relating to the Site, including, but not limited to, claims on account of construction delays.

XXV. INSURANCE

73. At least 15 days prior to commencing any on-Site work under this Settlement Agreement, Respondents shall secure, and shall maintain for the duration of this Settlement Agreement, comprehensive general liability insurance and automobile insurance with limits of \$2,000,000 dollars, combined single limit, naming EPA as an additional insured. Within the same time period, Respondents shall provide EPA with certificates of such insurance and a copy of each insurance policy. Respondents shall submit such certificates and copies of policies each year on the anniversary of the Effective Date. In addition, for the duration of the Settlement Agreement, Respondents shall satisfy, or shall ensure that their contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons performing the Work on behalf of Respondents in furtherance of this Settlement Agreement. If Respondents demonstrate by evidence satisfactory to EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering some or all of the same risks but in an equal or lesser amount, then Respondents need provide only that portion of the insurance described above which is not maintained by such contractor or subcontractor.

XXVI. FINANCIAL ASSURANCE

74. Within 30 days of the Effective Date, Respondents shall establish and maintain financial security for the benefit of EPA in the amount of \$2,000,000 in one or more of the following forms, in order to secure the full and final completion of Work by Respondents:

- a. a surety bond unconditionally guaranteeing payment and/or performance of the Work;
- b. one or more irrevocable letters of credit, payable to or at the direction of EPA, issued by financial institution(s) acceptable in all respects to EPA;
- c. a trust fund administered by a trustee acceptable in all respects to EPA;
- d. a policy of insurance issued by an insurance carrier acceptable in all respects to EPA, which ensures the payment and/or performance of the Work;
- e. a written guarantee to pay for or perform the Work provided by one or more parent companies of Respondents, or by one or more unrelated companies that have a substantial business relationship with at least one of Respondents; including a demonstration that any such guarantor company satisfies the financial test requirements of 40 C.F.R. Part 264.143(f); and/or
- f. a demonstration of sufficient financial resources to pay for the Work made by one or more of Respondents, which shall consist of a demonstration that any such Respondent satisfies the requirements of 40 C.F.R. Part 264.143(f).

75. Any and all financial assurance instruments provided pursuant to this Section shall be in form and substance satisfactory to EPA, determined in EPA's sole discretion. In the event that EPA determines at any time that the financial assurances provided pursuant to this

Section (including, without limitation, the instrument(s) evidencing such assurances) are inadequate, Respondents shall, within 30 days of receipt of notice of EPA's determination, obtain and present to EPA for approval one of the other forms of financial assurance listed in Paragraph 74, above. In addition, if at any time EPA notifies Respondents that the anticipated cost of completing the Work has increased, then, within 30 days of such notification, Respondents shall obtain and present to EPA for approval a revised form of financial assurance (otherwise acceptable under this Section) that reflects such cost increase. Respondents' inability to demonstrate financial ability to complete the Work shall in no way excuse performance of any activities required under this Settlement Agreement.

76. If Respondents seek to ensure completion of the Work through a guarantee pursuant to Subparagraph 74(e) or 74(f) of this Settlement Agreement, Respondents shall (i) demonstrate to EPA's satisfaction that the guarantor satisfies the requirements of 40 C.F.R. Part 264.143(f); and (ii) resubmit sworn statements conveying the information required by 40 C.F.R. Part 264.143(f) annually, on the anniversary of the Effective Date or such other date as agreed by EPA, to EPA. For the purposes of this Settlement Agreement, wherever 40 C.F.R. Part 264.143(f) references "sum of current closure and post-closure costs estimates and the current plugging and abandonment costs estimates," the dollar amount to be used in the relevant financial test calculations shall be the current cost estimate of \$2,000,000 for the Work at the Site plus any other RCRA, CERCLA, TSCA, or other federal environmental obligations financially assured by the relevant Respondent or guarantor to EPA by means of passing a financial test.

77. If, after the Effective Date, Respondents can show that the estimated cost to complete the remaining Work has diminished below the amount set forth in Paragraph 74 of this Section, Respondents may, on any anniversary date of the Effective Date, or at any other time agreed to by the Parties, reduce the amount of the financial security provided under this Section to the estimated cost of the remaining Work to be performed. Respondents shall submit a proposal for such reduction to EPA, in accordance with the requirements of this Section, and may reduce the amount of the security after receiving written approval from EPA. In the event of a dispute, Respondents may seek dispute resolution pursuant to Section XV (Dispute Resolution). Respondents may reduce the amount of security in accordance with EPA's written decision resolving the dispute.

78. Respondents may change the form of financial assurance provided under this Section at any time, upon notice to and prior written approval by EPA, provided that EPA determines that the new form of assurance meets the requirements of this Section. In the event of a dispute, Respondents may change the form of the financial assurance only in accordance with the written decision resolving the dispute.

XXVII. MODIFICATIONS

79. The OSC may make modifications to any plan or schedule or Statement of Work in writing or by oral direction. Oral modification shall be memorialized promptly. Any oral modification will be effective when memorialized in writing by EPA promptly but, in the case of exigent circumstances, it shall be effective on the date of the OSC's oral direction. Any other requirements of this Settlement Agreement may be modified in writing by mutual agreement of the parties.

80. If Respondents seek permission to deviate from any approved work plan or schedule or Statement of Work, Respondents' Project Coordinator shall submit a written request to EPA for approval outlining the proposed modification and its basis. Respondents may not proceed with the requested deviation until receiving oral or written approval from the OSC pursuant to Paragraph 79. Any agreed modification of the Statement of Work will modify the deadlines in the Statement of Work accordingly and thus, no stipulated penalties may be assessed according to the existing deadlines.

81. No informal advice, guidance, suggestion, or comment by the OSC or other EPA representatives regarding reports, plans, specifications, schedules, or any other writing submitted by Respondents shall relieve Respondents of their obligation to obtain any formal approval required by this Settlement Agreement, or to comply with all requirements of this Settlement Agreement, unless it is formally modified.

XXVIII. ADDITIONAL REMOVAL ACTION

82. If EPA determines that additional removal actions not included in an approved plan are necessary to protect public health, welfare, or the environment pursuant to the Statement of Work, EPA will notify Respondents of that determination. Unless otherwise stated by EPA, within 30 days of receipt of notice from EPA that additional removal actions are necessary to protect public health, welfare, or the environment pursuant to the Statement of Work, Respondents shall submit for approval by EPA a Work Plan for the additional removal actions. The plan shall conform to the applicable requirements of Section VIII (Work to Be Performed) of this Settlement Agreement. Upon EPA's approval of the plan pursuant to Section VIII, Respondents shall implement the plan for additional removal actions in accordance with the provisions and schedule contained therein. This Section does not alter or diminish the OSC's authority to make oral modifications to any plan or schedule pursuant to Section XXVII (Modifications).

XXIX. NOTICE OF COMPLETION OF WORK

83. When EPA determines, after EPA's review of the Final Report, that all Work has been fully performed in accordance with this Settlement Agreement, with the exception of any continuing obligations required by this Settlement Agreement, including but not limited to, post-removal site controls, payment of Future Response Costs and record retention, EPA will provide written notice to Respondents. If EPA determines that any such Work has not been completed in accordance with this Settlement Agreement, EPA will notify Respondents, provide a list of the deficiencies, and require that Respondents modify the Work Plan if appropriate in order to correct such deficiencies. Respondents shall implement the modified and approved Work Plan and shall submit a modified Final Report in accordance with the EPA notice. Failure by Respondents to implement the approved modified Work Plan shall be a violation of this Settlement Agreement.

XXX. INTEGRATION/APPENDICES

84. This Settlement Agreement and its appendices constitute the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement

embodied in this Settlement Agreement. The parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Settlement Agreement. The following appendices are attached to and incorporated into this Settlement Agreement: Appendix A (List of Respondents); Appendix B (Action Memorandum); Appendix C (Map of Site), and; Appendix D (Statement of Work).

XXXI. EFFECTIVE DATE

85. 1. This Settlement Agreement shall be effective immediately upon signature of the Settlement Agreement by the Superfund Division Director or his/her delegatee.

The undersigned representative(s) of Respondents whose names are signed and embodied in the Respondent Signature Page certify(ies) that it (they) is (are) fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party(ies) it (they) represent(s) to this document.

RESPONDENT SIGNATURE PAGE

USOR AND MCC SITE – TIME CRITICAL REMOVAL ACTION AOC

Agreed this __ day of _____, 2011.

For Respondent _____

By: _____

Title _____

embodied in this Settlement Agreement. The parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Settlement Agreement. The following appendices are attached to and incorporated into this Settlement Agreement: Appendix A (List of Respondents); Appendix B (Action Memorandum); Appendix C (Map of Site), and; Appendix D (Statement of Work).

XXXI. EFFECTIVE DATE

85. 1. This Settlement Agreement shall be effective immediately upon signature of the Settlement Agreement by the Superfund Division Director or his/her delegatee.

The undersigned representative(s) of Respondents whose names are signed and embodied in the Respondent Signature Page certify(ies) that it (they) is (are) fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party(ies) it (they) represent(s) to this document.

RESPONDENT SIGNATURE PAGE

USOR AND MCC SITE – TIME CRITICAL REMOVAL ACTION AOC

Agreed this 26th day of JULY, 2011.

For Respondent CHAMPION TECHNOLOGIES

By: Martyn [Signature]

Title VP-QHSSE

embodied in this Settlement Agreement. The parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Settlement Agreement. The following appendices are attached to and incorporated into this Settlement Agreement: Appendix A (List of Respondents); Appendix B (Action Memorandum); Appendix C (Map of Site), and; Appendix D (Statement of Work).

XXXI. EFFECTIVE DATE

85. 1. This Settlement Agreement shall be effective immediately upon signature of the Settlement Agreement by the Superfund Division Director or his/her delegatee.

The undersigned representative(s) of Respondents whose names are signed and embodied in the Respondent Signature Page certify(ies) that it (they) is (are) fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party(ies) it (they) represent(s) to this document.

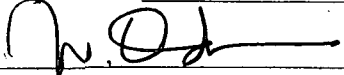
RESPONDENT SIGNATURE PAGE

USOR AND MCC SITE – TIME CRITICAL REMOVAL ACTION AOC

Agreed this 28th day of JULY, 2011.

Enterprise Products Operating LLC

For Respondent _____

By: 

Title EXECUTIVE VICE PRESIDENT



embodied in this Settlement Agreement. The parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Settlement Agreement. The following appendices are attached to and incorporated into this Settlement Agreement: Appendix A (List of Respondents); Appendix B (Action Memorandum); Appendix C (Map of Site), and; Appendix D (Statement of Work).

XXXI. EFFECTIVE DATE

85. 1. This Settlement Agreement shall be effective immediately upon signature of the Settlement Agreement by the Superfund Division Director or his/her delegatee.

The undersigned representative(s) of Respondents whose names are signed and embodied in the Respondent Signature Page certify(ies) that it (they) is (are) fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party(ies) it (they) represent(s) to this document.

RESPONDENT SIGNATURE PAGE

USOR AND MCC SITE – TIME CRITICAL REMOVAL ACTION AOC


Agreed this ^{7th} 4 day of AUGUST, 2011.

Enterprise Products Operating LLC, on behalf of Enterprise Transportation Company

For Respondent

By: W. O. Ordemann

Title William Ordemann, Executive Vice President



embodied in this Settlement Agreement. The parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Settlement Agreement. The following appendices are attached to and incorporated into this Settlement Agreement: Appendix A (List of Respondents); Appendix B (Action Memorandum); Appendix C (Map of Site), and; Appendix D (Statement of Work).

XXXI. EFFECTIVE DATE

85. 1. This Settlement Agreement shall be effective immediately upon signature of the Settlement Agreement by the Superfund Division Director or his/her delegatee.

The undersigned representative(s) of Respondents whose names are signed and embodied in the Respondent Signature Page certify(ies) that it (they) is (are) fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party(ies) it (they) represent(s) to this document.

RESPONDENT SIGNATURE PAGE

USOR AND MCC SITE - TIME CRITICAL REMOVAL ACTION AOC

Agreed this 24th day of July, 2011.

For Respondent TI Bnls, mL 237
TI Bnls, mL 183

By: [Signature]
Title President

embodied in this Settlement Agreement. The parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Settlement Agreement. The following appendices are attached to and incorporated into this Settlement Agreement: Appendix A (List of Respondents); Appendix B (Action Memorandum); Appendix C (Map of Site), and; Appendix D (Statement of Work).

XXXI. EFFECTIVE DATE

85. 1. This Settlement Agreement shall be effective immediately upon signature of the Settlement Agreement by the Superfund Division Director or his/her delegatee.

The undersigned representative(s) of Respondents whose names are signed and embodied in the Respondent Signature Page certify(ies) that it (they) is (are) fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party(ies) it (they) represent(s) to this document.

RESPONDENT SIGNATURE PAGE

USOR AND MCC SITE – TIME CRITICAL REMOVAL ACTION AOC

Agreed this 20 day of July, 2011.

For Respondent ONEOK Hydrocarbon Southwest, L.L.C.

By: A. J. A. L.

Title Vice President - ESH

embodied in this Settlement Agreement. The parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Settlement Agreement. The following appendices are attached to and incorporated into this Settlement Agreement: Appendix A (List of Respondents); Appendix B (Action Memorandum); Appendix C (Map of Site), and; Appendix D (Statement of Work).

XXXI. EFFECTIVE DATE

85. 1. This Settlement Agreement shall be effective immediately upon signature of the Settlement Agreement by the Superfund Division Director or his/her delegatee.

The undersigned representative(s) of Respondents whose names are signed and embodied in the Respondent Signature Page certify(ies) that it (they) is (are) fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party(ies) it (they) represent(s) to this document.

RESPONDENT SIGNATURE PAGE

USOR AND MCC SITE - TIME CRITICAL REMOVAL ACTION AOC

Agreed this 29 day of July, 2011.

For Respondent BASF Corporation, as successor in interest to
By: Nam Bernardo Ciba Corporation
Title Senior Environmental Counsel

embodied in this Settlement Agreement. The parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Settlement Agreement. The following appendices are attached to and incorporated into this Settlement Agreement: Appendix A (List of Respondents); Appendix B (Action Memorandum); Appendix C (Map of Site), and; Appendix D (Statement of Work).

XXXI. EFFECTIVE DATE

85. 1. This Settlement Agreement shall be effective immediately upon signature of the Settlement Agreement by the Superfund Division Director or his/her delegatee.

The undersigned representative(s) of Respondents whose names are signed and embodied in the Respondent Signature Page certify(ies) that it (they) is (are) fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party(ies) it (they) represent(s) to this document.

RESPONDENT SIGNATURE PAGE

USOR AND MCC SITE – TIME CRITICAL REMOVAL ACTION AOC

Agreed this 28 day of JULY, 2011.

For Respondent

By:

Title

THE DOW CHEMICAL COMPANY
Remediation Manager
AUTHORIZED REPRESENTATIVE

embodied in this Settlement Agreement. The parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Settlement Agreement. The following appendices are attached to and incorporated into this Settlement Agreement: Appendix A (List of Respondents); Appendix B (Action Memorandum); Appendix C (Map of Site), and; Appendix D (Statement of Work).

XXXI. EFFECTIVE DATE

85. 1. This Settlement Agreement shall be effective immediately upon signature of the Settlement Agreement by the Superfund Division Director or his/her delegatee.

The undersigned representative(s) of Respondents whose names are signed and embodied in the Respondent Signature Page certify(ies) that it (they) is (are) fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party(ies) it (they) represent(s) to this document.

RESPONDENT SIGNATURE PAGE

USOR AND MCC SITE - TIME CRITICAL REMOVAL ACTION AOC

Agreed this 28th day of July, 2011.

For Respondent Texas Oil & Gathering, Inc.

By: J.A. Kessel

Title President

embodied in this Settlement Agreement. The parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Settlement Agreement. The following appendices are attached to and incorporated into this Settlement Agreement: Appendix A (List of Respondents); Appendix B (Action Memorandum); Appendix C (Map of Site), and; Appendix D (Statement of Work).

XXXI. EFFECTIVE DATE

85. 1. This Settlement Agreement shall be effective immediately upon signature of the Settlement Agreement by the Superfund Division Director or his/her delegatee.

The undersigned representative(s) of Respondents whose names are signed and embodied in the Respondent Signature Page certify(ies) that it (they) is (are) fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party(ies) it (they) represent(s) to this document.

RESPONDENT SIGNATURE PAGE

USOR AND MCC SITE – TIME CRITICAL REMOVAL ACTION AOC

Agreed this 22 day of July, 2011.

For Respondent SAFETY-KLEEN Systems, Inc.

By: [Signature]

Title Senior Vice President

embodied in this Settlement Agreement. The parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Settlement Agreement. The following appendices are attached to and incorporated into this Settlement Agreement: Appendix A (List of Respondents); Appendix B (Action Memorandum); Appendix C (Map of Site), and; Appendix D (Statement of Work).

XXXI. EFFECTIVE DATE

85. 1. This Settlement Agreement shall be effective immediately upon signature of the Settlement Agreement by the Superfund Division Director or his/her delegatee.

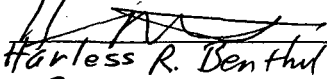
The undersigned representative(s) of Respondents whose names are signed and embodied in the Respondent Signature Page certify(ies) that it (they) is (are) fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party(ies) it (they) represent(s) to this document.

RESPONDENT SIGNATURE PAGE

USOR AND MCC SITE – TIME CRITICAL REMOVAL ACTION AOC

Agreed this 27th day of July, 2011.

For Respondent KMCO, L.P.

By: 
Harless R. Benthal

Title Counsel

IN WITNESS WHEREOF, the Members hereto, which may be by and through their appointed counsel, enter into this Agreement. Each person signing this Agreement represents and warrants that he or she has been duly authorized to enter into this Agreement by the Company on whose behalf it is indicated that person is signing and that prior to signing, he or she has read the Agreement, understands its provisions, and consents to its provisions on behalf of the Member for which he or she is signing.

Date of Execution: 7/26/11

Name of Member TT Barge Cleaning

By:

Elizabeth Haecker Ryan

Title:

Corporate Counsel for T.T. Barge Cleaning

embodied in this Settlement Agreement. The parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Settlement Agreement. The following appendices are attached to and incorporated into this Settlement Agreement: Appendix A (List of Respondents); Appendix B (Action Memorandum); Appendix C (Map of Site), and; Appendix D (Statement of Work).

XXXI. EFFECTIVE DATE

85. 1. This Settlement Agreement shall be effective immediately upon signature of the Settlement Agreement by the Superfund Division Director or his/her delegatee.

The undersigned representative(s) of Respondents whose names are signed and embodied in the Respondent Signature Page certify(ies) that it (they) is (are) fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party(ies) it (they) represent(s) to this document.

RESPONDENT SIGNATURE PAGE

USOR AND MCC SITE - TIME CRITICAL REMOVAL ACTION AOC

Agreed this 29 day of July, 2011.

For Respondent

LBC Houston.

By:

Title

Group CEO.

embodied in this Settlement Agreement. The parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Settlement Agreement. The following appendices are attached to and incorporated into this Settlement Agreement: Appendix A (List of Respondents); Appendix B (Action Memorandum); Appendix C (Map of Site), and; Appendix D (Statement of Work).

XXXI. EFFECTIVE DATE

85. 1. This Settlement Agreement shall be effective immediately upon signature of the Settlement Agreement by the Superfund Division Director or his/her delegatee.

The undersigned representative(s) of Respondents whose names are signed and embodied in the Respondent Signature Page certify(ies) that it (they) is (are) fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party(ies) it (they) represent(s) to this document.

RESPONDENT SIGNATURE PAGE

USOR AND MCC SITE - TIME CRITICAL REMOVAL ACTION AOC

Agreed this 25th day of July, 2011.

For Respondent Southwest Shipyard LP

By: [Signature]

Title Resident

embodied in this Settlement Agreement. The parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Settlement Agreement. The following appendices are attached to and incorporated into this Settlement Agreement: Appendix A (List of Respondents); Appendix B (Action Memorandum); Appendix C (Map of Site), and; Appendix D (Statement of Work).

XXXI. EFFECTIVE DATE

85. 1. This Settlement Agreement shall be effective immediately upon signature of the Settlement Agreement by the Superfund Division Director or his/her delegatee.

The undersigned representative(s) of Respondents whose names are signed and embodied in the Respondent Signature Page certify(ies) that it (they) is (are) fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party(ies) it (they) represent(s) to this document.

RESPONDENT SIGNATURE PAGE

USOR AND MCC SITE – TIME CRITICAL REMOVAL ACTION AOC

Agreed this 25th day of June, 2011.

For Respondent The Lubrizol Corporation
By: [Signature]
Greg Lewis
Title VP Global Risk Mngmt + Ethics

embodied in this Settlement Agreement. The parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Settlement Agreement. The following appendices are attached to and incorporated into this Settlement Agreement: Appendix A (List of Respondents); Appendix B (Action Memorandum); Appendix C (Map of Site), and; Appendix D (Statement of Work).

XXXI. EFFECTIVE DATE

85. 1. This Settlement Agreement shall be effective immediately upon signature of the Settlement Agreement by the Superfund Division Director or his/her delegatee.

The undersigned representative(s) of Respondents whose names are signed and embodied in the Respondent Signature Page certify(ies) that it (they) is (are) fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party(ies) it (they) represent(s) to this document.

RESPONDENT SIGNATURE PAGE

USOR AND MCC SITE – TIME CRITICAL REMOVAL ACTION AOC

Agreed this 29th day of July, 2011.

For Respondent Superior Packaging Distribution, L.P.
By: Catherine N. Crabtree
Title Vice President

embodied in this Settlement Agreement. The parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Settlement Agreement. The following appendices are attached to and incorporated into this Settlement Agreement: Appendix A (List of Respondents); Appendix B (Action Memorandum); Appendix C (Map of Site), and; Appendix D (Statement of Work).

XXXI. EFFECTIVE DATE

85. 1. This Settlement Agreement shall be effective immediately upon signature of the Settlement Agreement by the Superfund Division Director or his/her delegatee.

The undersigned representative(s) of Respondents whose names are signed and embodied in the Respondent Signature Page certify(ies) that it (they) is (are) fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party(ies) it (they) represent(s) to this document.

RESPONDENT SIGNATURE PAGE

USOR AND MCC SITE – TIME CRITICAL REMOVAL ACTION AOC

Agreed this 26 day of July, 2011.

For Respondent General Dynamics Ordnance and Tactical Systems, Inc

By: Del S. Dameron

Del S. Dameron

Title VP and General Counsel

embodied in this Settlement Agreement. The parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Settlement Agreement. The following appendices are attached to and incorporated into this Settlement Agreement: Appendix A (List of Respondents); Appendix B (Action Memorandum); Appendix C (Map of Site), and; Appendix D (Statement of Work).

XXXI. EFFECTIVE DATE

85. 1. This Settlement Agreement shall be effective immediately upon signature of the Settlement Agreement by the Superfund Division Director or his/her delegatee.

The undersigned representative(s) of Respondents whose names are signed and embodied in the Respondent Signature Page certify(ies) that it (they) is (are) fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party(ies) it (they) represent(s) to this document.

RESPONDENT SIGNATURE PAGE

USOR AND MCC SITE - TIME CRITICAL REMOVAL ACTION AOC

Agreed this ___ day of _____, 2011..

ASHLAND INC., INDEMNITOR OF (1) GENERAL DYNAMICS
ORDANCE AND TACTICAL SYSTEMS, INC., AND (2)
For Respondent CONTINENTAL AIRLINES, INC.

By: 
ROBIN E. LAMPKIN, ESQ.
Title SENIOR GROUP COUNSEL

embodied in this Settlement Agreement. The parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Settlement Agreement. The following appendices are attached to and incorporated into this Settlement Agreement: Appendix A (List of Respondents); Appendix B (Action Memorandum); Appendix C (Map of Site), and; Appendix D (Statement of Work).

XXXI. EFFECTIVE DATE

85. 1. This Settlement Agreement shall be effective immediately upon signature of the Settlement Agreement by the Superfund Division Director or his/her delegatee.

The undersigned representative(s) of Respondents whose names are signed and embodied in the Respondent Signature Page certify(ies) that it (they) is (are) fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party(ies) it (they) represent(s) to this document.

RESPONDENT SIGNATURE PAGE

USOR AND MCC SITE – TIME CRITICAL REMOVAL ACTION AOC

Agreed this 26 day of July, 2011.

For Respondent Texas Barge and Boat, Inc.

By:

[Signature]

Title

PRESIDENT

embodied in this Settlement Agreement. The parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Settlement Agreement. The following appendices are attached to and incorporated into this Settlement Agreement: Appendix A (List of Respondents); Appendix B (Action Memorandum); Appendix C (Map of Site); and Appendix D (Statement of Work).

XXXI. EFFECTIVE DATE

85. 1. This Settlement Agreement shall be effective immediately upon signature of the Settlement Agreement by the Superfund Division Director or his/her delegate.

The undersigned representative(s) of Respondents whose names are signed and embodied in the Respondent Signature Page certify(ies) that it (they) is (are) fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party(ies) it (they) represent(s) to this document.

RESPONDENT SIGNATURE PAGE

USOR AND MCC SITE – TIME CRITICAL REMOVAL ACTION AOC

Agreed this __ day of _____, 2011.

For Respondent INEOS Styrenics, LLC (f/k/a INEOS NOVA, LLC)

By: 

Title: VPo General Counsel

By: 

Title: President and CEO

embodied in this Settlement Agreement. The parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Settlement Agreement. The following appendices are attached to and incorporated into this Settlement Agreement: Appendix A (List of Respondents); Appendix B (Action Memorandum); Appendix C (Map of Site), and; Appendix D (Statement of Work).

XXXI. EFFECTIVE DATE

85. 1. This Settlement Agreement shall be effective immediately upon signature of the Settlement Agreement by the Superfund Division Director or his/her delegatee.

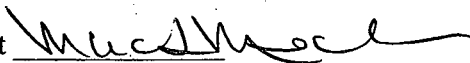
The undersigned representative(s) of Respondents whose names are signed and embodied in the Respondent Signature Page certify(ies) that it (they) is (are) fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party(ies) it (they) represent(s) to this document.

RESPONDENT SIGNATURE PAGE

USOR AND MCC SITE – TIME CRITICAL REMOVAL ACTION AOC

Agreed this 25 day of July, 2011.

For Respondent



By: Mark L. Medlen

Title President, Oxio L.P.

embodied in this Settlement Agreement. The parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Settlement Agreement. The following appendices are attached to and incorporated into this Settlement Agreement: Appendix A (List of Respondents); Appendix B (Action Memorandum); Appendix C (Map of Site), and; Appendix D (Statement of Work).

XXXI. EFFECTIVE DATE

85. 1. This Settlement Agreement shall be effective immediately upon signature of the Settlement Agreement by the Superfund Division Director or his/her delegatee.

The undersigned representative(s) of Respondents whose names are signed and embodied in the Respondent Signature Page certify(ies) that it (they) is (are) fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party(ies) it (they) represent(s) to this document.

RESPONDENT SIGNATURE PAGE

USOR AND MCC SITE – TIME CRITICAL REMOVAL ACTION AOC

Agreed this 27 day of July, 2011.

For Respondent GTE Betz, Inc.

By: Annette User

Title VP, Environment, Health & Safety

embodied in this Settlement Agreement. The parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Settlement Agreement. The following appendices are attached to and incorporated into this Settlement Agreement: Appendix A (List of Respondents); Appendix B (Action Memorandum); Appendix C (Map of Site), and; Appendix D (Statement of Work).

XXXI. EFFECTIVE DATE

85. 1. This Settlement Agreement shall be effective immediately upon signature of the Settlement Agreement by the Superfund Division Director or his/her delegatee.

The undersigned representative(s) of Respondents whose names are signed and embodied in the Respondent Signature Page certify(ies) that it (they) is (are) fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party(ies) it (they) represent(s) to this document.

RESPONDENT SIGNATURE PAGE

USOR AND MCC SITE - TIME CRITICAL REMOVAL ACTION AOC

Agreed this 4 day of August, 2011.

For Respondent Boeing Transport, Inc.
By: [Signature]
Title CFO

EPA DIVISION DIRECTOR SIGNATURE PAGE AND EFFECTIVE DATE

USOR AND MCC SITE – TIME CRITICAL REMOVAL ACTION AOC

It is so ORDERED and Agreed this 25th day of August, 2011.

BY: Samuel Coleman, P.E. DATE: 8/25/11
Samuel Coleman, P.E.
Superfund Division Director (or designee)
Region 6
U.S. Environmental Protection Agency

EFFECTIVE DATE: _____

U.S. OIL RECOVERY AND MCC SUPERFUND SITE

ADMINISTRATIVE ORDER ON CONSENT

TIME CRITICAL REMOVAL ACTION

ATTACHMENT A

LIST OF RESPONDENTS

ATTACHMENT A

U.S. OIL RECOVERY AND MCC SUPERFUND SITE

**ADMINISTRATIVE ORDER ON
CONSENT**

TIME CRITICAL REMOVAL ACTION

ATTACHMENT A

LIST OF RESPONDENTS

Original PRPs

Champion Technologies, Inc.

TT Barge Services

MEMC Pasadena, Inc.

TT Barge Cleaning

Southwest Shipyard, L.P.

LBC Houston

Texas Barge & Boat, Inc.

KMCO Ramsey Road Plant

Newly-Identified PRPs

American Acryl LP

Blentech Corporation

BASF Corporation, as successor in interest to Ciba Corporation

Ashland Inc. for Continental Airlines

Enterprise Products Operating, LLC

GE Water & Process Technologies

Ashland Inc. for General Dynamics Ordnance and Tactical Systems, Inc.

Walbar, Inc. d/b/a Engine Components Goodrich Corporation

Groendyke

Haltermann (DOW)

INEOS NOVA, LLC

Intra-Services, Inc.

Lone Star Fasteners

The Lubrizol Corporation

Nalco Energy

Norman Transport, Inc.

ONEOK Hydrocarbon Southwest, L.L.C.

OXID LP

Pilot Industries

Safety-Kleen Systems, Inc.

Superior Packaging & Distribution, L.P.

Texas Oil & Gathering, Inc.

Valero Refining

Vopak Terminal Galena Park

U.S. OIL RECOVERY AND MCC SUPERFUND SITE

ADMINISTRATIVE ORDER ON CONSENT

TIME CRITICAL REMOVAL ACTION

ATTACHMENT B

ACTION MEMORANDUM

ATTACHMENT B



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

MAR 17 2011

MEMORANDUM

SUBJECT: Request for a Time-Critical Removal Action at US Oil Recovery (US Oil Recovery property and affiliated MCC property), Pasadena, Texas.

FROM: Adam Adams, On-Scene Coordinator *Adm*
Prevention and Response Branch, Removal Team (6SF-PR)

THRU: *for* Ragan Broyles, Associate Director *J. Chris Peterson*
Prevention and Response Branch (6SF-P)

TO: Samuel Coleman, P.E., Director
Superfund Division (6SF)

I. PURPOSE

This Memorandum requests the approval of a time-critical removal action in accordance with the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9604, at the U.S. Oil Recovery (USOR) and MCC Recycling (MCC) properties (collectively, the Site), both located in Pasadena, Texas. The general scope of the removal action will be to remove and dispose of hazardous substances that were abandoned in June of 2010 at the two properties within the Site and which have been the source of previous and on-going emergency response actions to stabilize the Site. Hazardous substances, pollutants, or contaminants have been found in above ground storage tanks, totes, drums, roll-off box containers, containment areas, secondary containment areas, a retention pond, parking lots, a bioreactor, and throughout the former waste water treatment facility.

The action described in this memorandum meets the criteria for initiating a removal action under Section 300.415 of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 C.F.R. § 300.415 (b)(2). This time-critical removal action is expected to exceed the statutory \$2 million limit and the twelve month statutory limit for removal actions.

The first action at this Site was initiated under the On-Scene Coordinator's \$250,000 authority, Chapter 14, Number 2, and subsequent Regional Delegation, R6-14-2, on July 2, 2010. Later on July 2, 2010, the Regional Removal Allowance Ceiling was raised by verbal approval from the Superfund Division Director to \$1,100,000. In response to a second incident at this Site in November of 2010, the Regional Removal Allowance Ceiling was raised by verbal approval from the Superfund Division Director to \$1,600,000. In January 2011, a response to a third incident was conducted under the second action with no funding increase.

II. SITE CONDITIONS AND BACKGROUND

CERCLIS NO: TXR000051540 (USOR Property), and
TXR000079409 (MCC Property)
Category of Removal: Time-Critical Removal
Site ID NO: A6X7
Latitude: 29.7177400° North
Longitude: -95.2210530° West

A. Site Description

1. Removal Site Evaluation

The Site formerly accepted and pretreated municipal and industrial Class I and Class II wastewater, characteristically hazardous waste, used oil and oily sludges, and municipal solid waste before it was abandoned in June of 2010. The approximate 18-acre Site consists of two properties that are, according to the property owner via the July, 2010 court-appointed Receivership (Trustee), connected by piping. The Site is located on both sides of Vince Bayou just south of the Houston Ship Channel at 400 North Richey and 200 North Richey in Pasadena, Texas. Hazardous substances, pollutants, or contaminants have been detected by sampling or field screening in drums, totes, above ground storage tanks (ASTs), containments, secondary containments, roll-off containers, the retention pond, bioreactor, parking lots, and most significantly in the runoff from the facilities.

The Harris County Public Health and Environmental Services (HCPHES) and Texas Commission on Environmental Quality (TCEQ) contacted the National Response Center (NRC) and Environmental Protection Agency (EPA) hotline and On-Scene Coordinator (OSC) and requested assistance in stabilizing the US Oil Recovery (USOR) and MCC Recycling (MCC) properties in managing a large volume of contaminated waste water that was being released from the Site and draining to the adjacent Vince Bayou (See Attachment 5 for NRC Reports 946255, 946854, and 959001) on July 1, 2010 and November 4, 2010. The OSC activated START-3 contractors to conduct preliminary assessments. Upon arrival at the Site, the OSC met with representatives from TCEQ and HCPHES, gained access to the Site from the property owner and Receivership, found the properties without restriction to public access and open roll-off containers labeled "Hazardous Waste... '09," and activated Emergency Rapid Response Services (ERRS) contractors to respond and stabilize the Site. The ASTs, secondary containments, and bays/containments had visible hydrocarbon contamination, some with pH levels less than pH 2. Drums and totes were found unorganized, mislabeled, adjacent to incompatibles, or stored with incompatible contents.

Historical inspections/investigations conducted by the HCPHES and the TCEQ have shown elevated levels of benzene and chlorinated solvents in some of the waste stored onsite. Specific hazardous substances found at the property by the EPA include, but are not limited to flammables (D001), corrosives (D002), arsenic (D004), barium (D005), cadmium (D006), chromium (D007), lead (D008), mercury (D009), selenium (D010), silver (D011), benzene (D018), chloroform (D022), 1,2-dichloroethane (D028), methyl ethyl ketone (D035), tetrachloroethylene (D039), trichloroethylene (D040), acetone, and hydrogen sulfide.

The USOR property includes 225 (25 cubic yard) roll-off containers, approximately 797 (55 gallon) drums, approximately 212 (300 to 400 gallon) totes, approximately 24 (1,000 to 30,000 gallon) above-ground storage tanks (AST's) in varying degrees of operability located outside on the north end of the facility with secondary containments, an approximate 300,000 gallon capacity dual cell bioreactor in poor condition located on the northwest side of the property with approximately 3 to 4 feet of material (liquids, sludges, and solids) and structural damage (reportedly from March-April 2009), 2 (20,000 gallon) frac tanks in good condition, a large full retention pond on the west side of the property, and a parking lot with standing water between the office and the warehouse.

The MCC Recycling property operated out of the USOR property, but was located on both sides of Vince Bayou just southeast across the railroad tracks from USOR. The northeast section of MCC consisted of 2 clarifiers, 2 oxygen digesters, an oxygen activation sludge unit, an oxygen plant, a chlorination building, a lift station (1), a gravity thickener, an aerobic digester, a belt filter press building, a pump control room, and a chlorine contact tank (basin/concrete containment area). The southwest section of MCC consisted of a high rate trickling filter, an oil-water separator, a primary clarifier, a final clarifier, and lift stations (2). Additional fixtures are present at MCC but not listed (i.e. a documents building, etc.).

No USOR or MCC representatives or employees have been onsite or available to the responding EPA representatives prior to, during, or upon completion of the EPA emergency response efforts that were initiated in July and November of 2010, with the only exceptions being by phone on July 2, 2010, and the Receivership since his appointment in July 2010. Initial access was granted on July 2, 2010 to the EPA and contractors verbally by the property owner and hard copy by the property owner's counsel. Upon court appointment of the Receivership later in July of 2010, access was granted by and coordinated with the Receivership.

2. Physical Location

The USOR and MCC Recycling properties are respectively located at 400 North Richey Street and 200 North Richey Street in Pasadena, Texas 77506 (See Attachments 1 and 2). The GPS location is Latitude: 29.7177400 North, Longitude: -95.2210530 West. The Site's

topography is such that it flows from both properties into the adjacent Vince Bayou, which is directly connected to the Houston Ship Channel.

3. Site Characteristics

The Site includes a warehouse, retention pond, and several containment areas throughout. USOR and/or MCC received municipal and industrial Class I and Class II wastewater, characteristically hazardous waste, used oil and oily sludges, and municipal solid waste. The Site is located in the City of Pasadena, which had a population of approximately 146,000 in July 2009. The population within 1 square mile of the site, according to the 2000 Census, was 1,131. The MCC property borders commercial businesses on each side, but also is split into two by Vince Bayou. There are homes within 500 feet and 250 feet of the USOR and MCC properties, respectively.

4. Release or Threatened Release into the Environment of a Hazardous Substance, or Pollutant or Contaminant.

Preliminary assessments of the Site on July 2, 2010, November 9, 2010, and January 25 identified the historic or on-going release and threat of release of hazardous substances from the Site. Results from field screening and sample analyses indicate substances found in drums, totes, tanks, roll-off containers, the retention pond, containments, secondary containments, and runoff contain hazardous substances as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14) and 40 C.F.R. § 302.4.

USOR containments (sumps 34, 35, and 36), AST's, and secondary containments were visibly overflowing following significant rain events in July and November of 2010, and again in January of 2011. Per the Receivership, this occurred twice between early August and October 19, 2010. Additionally, overflow liquids drain into the standing water at the parking lot and then down gradient into Vince Bayou. Field screening of the runoff from sumps 34, 35, and 36 indicated a pH less than 2. Samples collected from the sludge in the north tank farm measured benzene at 3.75 milligrams per Liter (mg/L) and methyl ethyl ketone at 0.695 mg/L. Hydrogen sulfide was measured in the north tank farm liquids shipped for disposal/fuels blending at over 2,000 ppm.

The MCC property had liquid runoff from the chlorine contact tank (containment area). During the July 2010 incident response, analytical results from the seepage just outside the chlorine contact tank (WW02) measured acetone at 14,000 µg/L, benzene at 46.4 µg/L, toluene at 258 µg/L, ethyl benzene at 757 µg/L, methyl ethyl ketone at 198 µg/L, and xylene at 4,320 µg/L. The seepage sample was later confirmed to be originating from a faulty concrete reconfiguration in the chlorine contact tank (also referred to as the "Z-tank" due to the

configuration) at the west corner. The sample was collected from an uncontrolled discharge with no facility oversight.

Upon arrival at the USOR property for the November incident response, corrosive caustic drums and totes inside the warehouse were found damaged with contents spilled. Drums and totes were found segregated as they had been left following the July 2010 incident response, with the exceptions being the few drums and totes that had failed while the facility had no routine oversight or monitoring. The following table provides drum and tote assessment results from the July incident response in which the drums and totes had been inventoried, field screened/ hazard characterization analyzed, segregated, and staged with signage:

Classification	Drum	Overpack	Tote	Count Subtotal
Combustible	45	1	9	55
Combustible, Corrosive Acid	2	-	-	2
Corrosive Acid	36	-	9	45
Corrosive Base	12	1	7	20
Empty	6	-	1	7
Flammable	339	16	62	417
Flammable, Corrosive Acid	4	-	2	6
Flammable, Corrosive Base	3	-	2	5
Non-corrosive	1	-	-	1
Non-flammable	128	4	40	172
Non-flammable, Non-corrosive	175	3	74	252
Not Tested	11	-	-	11
Potential H2S	-	-	1	1
Potential Oxidizer	-	-	5	5
	762	25	212	999

Further releases to the environment can occur if the hazardous substances are not removed from the Site. Without routine oversight and monitoring of the properties, there is a potential for future releases. Chemicals identified in drums, totes, tanks, roll-off containers, the retention pond, bioreactor, containments, secondary containments, and runoff are hazardous substances as defined in Section 101(14) of CERCLA, 42 U.S.C. §9601(14) and 40 C.F.R. §302.4.

5. NPL Status

This site is being evaluated for possible listing on the National Priorities List at the time of this Action Memorandum.

6. Maps, Pictures and Other Graphic Representations

Attachment 1:	Site Location Map
Attachment 2:	A. Aerial Site Map B. USOR Property Map C. USOR Property Aerial Map D. USOR Property Sampling Location / Overland Flow Map E. MCC Property Map F. MCC Property Aerial Map G. MCC Property Sampling Location / Overland Flow Map
Attachment 3:	Enforcement Attachment (Enforcement Confidential/FOIA Exempt).
Attachment 4:	Summary Tables of Sample Analytical Results
Attachment 5:	NRC Reports
Attachment 6:	ATSDR Sheets
Attachment 7:	EJ Reports
Attachment 8:	Scope of Work

B. Other Actions to Date

1. Previous Actions

Prior to this Time-Critical Removal Action, EPA has responded with emergency response contractors to stabilize the Site in July 2010, November 2010, and January 2011. During these emergency response efforts, the EPA has stabilized the Site by containing migration of contamination from the Site, removing large volumes of containment liquids to prevent overflow and runoff, conducting field screening/modified hazard characterization analyses of drums and totes for appropriate staging and segregation, over-packing faulty drums, repairing or replacing roll-off container tarps to prevent overflow, repairing damaged fencing, replacing locks on gates, installing signage, and washing secondary containments and bays to prevent future overflow of contamination. EPA has repeatedly dropped the levels in the secondary containments and bays and removed liquids and sludges with a pH less than 2 and benzene-contaminated sludges to also prevent overflow of contamination.

Prior to the July 2010 incident response, EPA's involvement with USOR and MCC consisted of assigning an identification number to the USOR property in 2003 and conducting multimedia investigations in 2009. EPA Resource Conservation and Recovery Act (RCRA) and Water Enforcement Program Teams submitted an information request to USOR/MCC in January 2010, and issued a Cease and Desist Administrative Order for Clean Water Act (CWA) violations in April 2010. A RCRA Section 7003 Unilateral Administrative Order (UAO) was issued to USOR/MCC and the owner in June 2010.

2. Current Actions

Currently, under the emergency response initiated in November of 2010, the OSC is on standby with contractors to respond to contain and mitigate any discharges of hazardous substances as needed, pending prior notification by the Receivership (Trustee), the local TCEQ and/or HCPHES by the appropriate mechanisms.

C. State and Local Authorities' Roles

1. State and Local Actions to Date

According to a RCRA Subtitle C Identification form, the owner of USOR became the owner of the USOR property in January 2002 and made initial notification to TCEQ of regulated waste activity (used oil) in 2003. An EPA identification number was assigned in February 2003, and USOR made notifications as a hazardous waste transporter and conditionally exempt small quantity generator (CESQG) in 2004. TCEQ and HCPHES have jointly been investigating and/or responding to community complaints involving USOR since as early as December 2005 and MCC Recycling as early as 2009. In December of 2008, the owner of USOR acquired a decommissioned waste water treatment plant ("WWTP") located at 200 N Richey that was previously owned/operated by the City of Pasadena. MCC was established to pre-treat wastewater generated by USOR before discharge to the City of Pasadena publicly-owned treatment water ("POTW") facility. A summary of TCEQ and HCPHES investigations and response activities are summarized below.

TCEQ Region 12 – Houston Office, Waste Section, Industrial and Hazardous Waste (IHW) Complaint Investigation and Case Development Investigations (CDI) conducted numerous investigations at USOR and MCC Recycling. Specific citations from TCEQ investigations are listed below:

- Failure to operate according to permits (i.e. not properly labeled operating units in accordance with TCEQ permits, failure to ensure containerized waste was stored in the appropriate locations)
- Failure to obtain RCRA permits for storing hazardous waste received from off-site generators.
- Failure to obtain a RCRA permit for the storage of hazardous waste in drummed waste, Bio-Reactor and roll-off boxes for greater than 90 days.
- Improper record keeping. Waste acceptance logs did not match waste disposal logs. During investigations waste acceptance logs would indicate specific volumes of

material onsite that would not match what was actually onsite. Waste disposal logs could not be tracked back to waste acceptance logs.

- Improper material storage/ management (i.e. failed to limit storage of waste to only those wastes specified in the permit, failure to maintain adequate spacing between rows of double stacked containers, containers freely leaking, and not keeping containers closed or covered).
- Failed to prevent the discharge or imminent threat of discharge of industrial solid waste or municipal hazardous waste into or adjacent to the water in the state without obtaining specific authorization for such a discharge from the TCEQ.
- Failure to create/maintain adequate secondary containment around operating units.
- Failure to receive prior authorization from the TCEQ Air Permits Section to conduct aeration of wastewater containing volatile organics stored within the Bio-Reactor. USOR failed to modify the permit to reflect this change in operation.

From 2004 to 2009, Harris County HCPHES Environmental Public Health Division (EPH) documented violations regarding nuisance odors, wastewater discharges, contaminated storm water discharges, and failure to obtain an air permit. Since May 2009, EPH has documented numerous violations and expressed concerns regarding both properties. Violations included wastewater discharges, contaminated storm water discharges, odor nuisances, permit violations (USOR), lack of appropriate permits/authorizations (USOR/MCC), hazardous waste storage/processing, and spills. Concerns included structural integrity of tanks at both USOR (bioreactors, at least two storage tanks) and MCC (tanks and piping in general), concerns about fire hazards (facility has been without water or electric at times), and concerns about additional spills and discharges to nearby Vince Bayou. EPH sought relief in the courts via a series of Temporary Restraining Orders and Temporary Injunctions issued in 2009 and 2010; however, most of the violations continued unabated despite the court's orders. In June 2010, an investigator from EPH observed that process equipment had been removed from both facilities and also observed that many tanks, secondary containments, and containers were near to overflowing. On July 1 and November 4, EPH investigators observed discharges from the USOR property during and after a heavy rain. EPH notified the NRC of the observed discharges and the potential of hazardous substances within the discharge. On July 2, an EPH investigator reported that the facility appeared to be abandoned.

2. Potential for Continued State/Local Response

The EPA, HCHPES, and TCEQ will continue to have involvement with the Site until the hazardous substances have been removed and disposed of properly. In the event the Site has

future incidents prior to or during the removal and disposal of hazardous substances, the NRC and EPA hotlines will be notified accordingly by the local representatives.

III. THREATS TO PUBLIC HEALTH OR WELFARE OR THE ENVIRONMENT, AND STATUTORY AND REGULATORY AUTHORITIES

Section 300.415 of the NCP lists the factors to be considered in determining the appropriateness of a removal action. Paragraphs (b)(2)(i), (iii), (v), (vi), and (vii) directly apply to the conditions at the Site. Any one of these factors may be sufficient to determine whether a removal action is appropriate.

A. Threats to Public Health or Welfare

1. Exposure to Human Populations, Animals or the Food Chain, NCP Section 300.415(b)(2)(i);

The predominant threat to human populations, animals or the food chain was and is the potential for exposure by direct contact with volatile organic compounds (benzene, hydrogen sulfide, etc.), flammables, corrosives, and unknowns in the containments, tanks, drums, totes, retention pond, bioreactor, and roll-off containers. Containments, ASTs, roll-off containers, and the retention pond have overflowed into the parking lot and into Vince Bayou. The Site is not operated or monitored daily or even weekly by anyone, and containers and containments can fail resulting in spillage into the parking lot and further into Vince Bayou. Spillage can also result in reactions and fire. Routes of exposure exist from direct contact with skin, eyes, and mucous membranes with the leaking material; inhalation of vapors emanating from the containers, containments, and AST's; and ingestion of runoff water and possibly Vince Bayou water. ~~Some specific hazardous substances, detections, health results from exposure, and routes of exposure~~ are listed below (this list is not all inclusive in respect to the hazardous substances, the concentrations, or the health results from exposure):

Acetone: 14 milligrams per Liter (mg/L); uncontrolled releases from the MCC property; skin irritation and damage, smell and respiratory irritation, headaches, unconsciousness, coma; inhalation, ingestion, and skin contact;

Benzene: 3.75 mg/L; seepage from the MCC property chlorine contact tank and the USOR property north tank farm sludge; headaches, unconsciousness, death, effects to the blood and immune system, and is a carcinogen; inhalation, ingestion, and skin contact;

Ethyl benzene: 0.757 mg/L; uncontrolled releases from the MCC property; eye and throat irritation, dizziness, and is a possible carcinogen; inhalation, ingestion, and skin contact;

Toluene: 0.258 mg/L; uncontrolled releases from the MCC property; confusion, memory loss, loss of hearing, loss of appetite, loss of color vision, dizziness, unconsciousness, death, and possible kidney damage; inhalation, ingestion, and skin contact;

Xylene: 4.32 mg/L; uncontrolled releases from the MCC property; headaches, dizziness, confusion, loss of sense of balance, irritation of the skin, eyes, nose, and throat, difficulty breathing, lung problems, delayed reaction time, memory difficulties, possible damage to liver and kidneys, unconsciousness, and death; inhalation, ingestion, and skin contact;

Methyl ethyl ketone (2 Butanone): 0.695 mg/L; the USOR property north tank farm sludge and uncontrolled releases from the MCC property; irritation of the nose, throat, skin, and eyes, birth defects, unconsciousness, and death; inhalation, ingestion, and skin contact; and

Hydrogen sulfide: over 2,000 ppm; the USOR property north tank farm; nasal symptoms, sore throat, cough, impaired lung functions, damage to olfactory epithelium, loss of smell; inhalation.

2. Hazardous Substances or Pollutants or Contaminants in Drums, Barrels, Tanks, or Other Bulk Storage Containers That May Pose a Threat of Release. NCP Section 300.415(b)(2)(iii);

Upon arrival at the Site by EPA during the July 2010 incident response, 797 (55 gallon) drums, 212 (300 to 400 gallon) totes, and 225 (25 cubic yard) roll-off containers were found staged throughout the Site in no particular organization. Containers (drums and totes) inside the warehouse had shown little indication of segregation, spacing, and stability. Upon field hazard characterization spot checking, many of the containers had labeling and markings other than the results of the field screening / hazard characterization analyses. Also, incompatibles (acids and bases) were found adjacent to each other. Corrosives ($10 < \text{pH} < 2$) were found in rusted metal drums in poor condition. Flammables were found in drums labeled "Non-Regulated" or "Universal Waste" or with no markings. Bulging drums were found throughout the warehouse. Many of the roll-off containers needed tarps, bows, poles, or repairs to prevent filling up and over flowing given a significant rain event, as what occurred on July 2, 2010.

Additionally, there are approximately 24 AST's (1,000 to 30,000 gallon) located on the north end of the USOR property. They contain various hazardous substances to include benzene (3.75 mg/L), methyl ethyl ketone (0.695 mg/L), corrosives ($10 < \text{pH} < 2$), and hydrogen sulfide (over 2,000 ppm). Some of the AST's have seepages, low level valves, and low level access points. It would be very easy for an untrained individual to walk into the USOR north tank farm with no protection, open a valve a few feet off the ground, and become smothered and engulfed in hydrogen sulfide IDLH conditions (NIOSH IDLH is 100 ppm for hydrogen sulfide), liquids, and sludges. During the November 2010 incident response, hydrogen sulfide was measured in the north tank farm liquids shipped for disposal/fuels blending at levels ranging over 2,000 ppm.

3. Weather Conditions That May Cause the Release or Migration of Hazardous Substances, NCP Section 300.415(b)(2)(v);

Pasadena, Texas is subject to several types of extreme weather conditions that could cause the release of hazardous substances, such as flooding, hurricanes, high winds, and significant rain events, such as the one that occurred on July 2, 2010 raising Vince Bayou over its banks and covering North Richey Street with approximately 4 to 4.5 feet of water in a matter of only 3 hours. At the height of this rain event, Vince Bayou was only approximately 25 feet from the facility fence line. Significant rains cause overflow of the facility retention pond, containments, secondary containments, and unloading bays, which all contain hazardous substances (i.e. acetone, benzene, ethyl benzene, methyl ethyl ketone, toluene, xylene) and hazardous flammable and corrosive substances which drain to Vince Bayou approximately 25 to 150 feet away depending on the height of the Vince Bayou water level. The facility is not operated or monitored routinely, and a small release or leak can turn into a significant incident given extreme weather conditions.

4. Threat of Fire or Explosion, NCP Section 300.415 (b)(2)(vi);

Facility tanks, drums, and totes contain flammable liquids, which when not managed appropriately could result in fire and/or explosion. Also with the Site not being operated or monitored routinely and the cold weather months, it's easily conceivable that persons might seek shelter from the cold weather in the facility structures. Untrained persons living amongst the containers and containments can set fires to warm themselves and inadvertently cause an uncontrolled fire. A fire could cause the release of hazardous substances at the Site and put responding fire fighters and neighboring businesses and residents in jeopardy of exposure.

5. Availability of Other Response Mechanisms, NCP Section 300.415(b)(2)(vii)

Upon a release, assistance would not or will not otherwise be provided in a timely basis, because the State of Texas, Harris County, and local governments do not have the resources to deal with a site of this complexity or magnitude. The Site was referred to the EPA by both TCEQ and HCPHES.

C. Threats to the Environment.

Runoff from the site has the potential of contaminating the nearby Vince Bayou. A release of hazardous substances from this site would, therefore, impact the ecosystem of the drainage pathway offsite.

IV. ENDANGERMENT DETERMINATION

Actual or threatened releases of hazardous substances, pollutants or contaminants from this Site, if not addressed by implementing the response action selected in this Action Memorandum, may present an imminent and substantial endangerment to the public health, welfare, or the environment.

V. ACTIONS TAKEN / PROPOSED AND ESTIMATED COSTS

A. Actions Taken / Proposed

1. Action Description

a. Actions Taken.

Access was requested initially and granted on July 2, 2010 and confirmed again on November 8, 2010 to initiate an EPA emergency assessment and response. This site has had two EPA emergency response actions initiated in July and November of 2010. Both response efforts included containment of hazardous substances, pollutants, or contaminants; mitigation of the threat of release; preliminary assessment of Site conditions, and stabilization of the Site to protect human health and the environment.

Containment efforts included the use of booms and absorbent pads, use of pumps and vacuum trucks, and shipment of liquids for disposal/fuels blending. Mitigation actions included dropping containment content levels to below overflow threat levels or emptying, drum and tote management and staging, and containment spray washing where needed and practical.

~~Stabilization actions include assessing site conditions, securing the Site and containers, and mitigating any potential threats.~~

Due to the large volume of some contained contaminated materials or the continued contact with storm water, some liquids and sludges were removed from the Site. Contaminated site liquids that accumulated from overflowing containments, secondary containments, unloading bays, leaking drums and totes, and the parking lot were shipped offsite and disposed of at the Inter Gulf Corporation property in Pasadena, Texas. Some of the liquids were neutralized to bring the pH above pH 2.0 for disposal property acceptance. Some liquids required treatment to address significant hydrogen sulfide levels prior to disposal property acceptance. Drums and totes inside the warehouse were managed to continue appropriate segregation and containment. Containments and secondary containments that are open to the elements were emptied of liquids and sludges to minimize future storm water contact, overflow, and offsite migration. Sludges

were sampled, transported, and disposed of accordingly at the Waste Management facility in Conroe, Texas and the US Ecology facility in Robstown, Texas, respectively.

All disposal was and will be in accordance with EPA's Offsite Rule, 40 CFR § 300.440, and CERCLA Section 121(d)(3), 42 U.S.C. § 9621(d)(3), and all transportation was in accordance with Department of Transportation (DOT) rules and regulations.

Waste Stream	Disposal Facility	Incident Occurrence	Volume/Weight
Hazardous Sludge (Benzene)	US Ecology	Incident 2	11,751 gallons
Hazardous Sludge Washout (Benzene)	US Ecology	Incident 2	5 drums
Nonhazardous Sludge	Waste Management	Incident 2	89.36 tons
PPE/Solids/IDW	Waste Management	Incident 2	10 cubic yards
Nonhazardous liquids	Intergulf	Incident 1	393,500 gallons
Nonhazardous liquids	Intergulf	Incident 2	410,000 gallons
Nonhazardous liquids	Intergulf	Incident 3	30,000 gallons
Nonhazardous liquids	Intergulf	Total	833,500 gallons

Other requirements under the Occupational Safety and Health Act (OSHA) of 1970, 29 U.S.C. § 651 *et seq.*, and under the laws of a State with an approved equivalent worker safety program, as well as other applicable safety and health requirements, were followed. Federal OSHA requirements include, among other things, Hazardous Materials Operation, 29 CFR Part 1910, as amended by 54 Fed. Reg. 9317 (March 1989), all OSHA General Industry (29 CFR Part 1910) and Construction (29 CFR Part 1926) standards wherever they are relevant, as well as OSHA record-keeping and reporting regulations, and the EPA regulations set forth in 40 CFR Part 300 relating to the conduct of work at Superfund sites.

b. Actions Proposed.

The Scope of Work (See Attachment 8), of this action includes three phases of action to remove the hazardous substances, pollutants, or contaminants to protect public health and the environment:

i. Site monitoring, maintenance, and containment of hazardous substances, pollutants, and contaminants from migrating off the property and exposing public health and the environment. This includes disposal if needed.

ii. Assessment of all hazardous substances, pollutants, and

contaminants from the Site (not to include subsurface assessment).

iii. Removal and disposal of all hazardous substances, pollutants, and contaminants at the Site.

2. Contribution to Remedial Performance

The emergency response actions and this time-critical action are consistent with any conceivable remedial responses at this Site.

3. Description of Alternative Technologies

The proposed action includes removal and disposal of the chemical wastes that pose the highest risk to public health. No alternative technologies can be applied to these portions of the action.

4. Applicable or Relevant and Appropriate Requirements (ARAR)

This removal action is and was conducted to eliminate the actual or potential exposure to hazardous substances, pollutants or contaminants to the environment, pursuant to CERCLA, 42 U.S.C. § 9601 *et seq.*, and in a manner consistent with the National Contingency Plan (NCP), 40 CFR Part 300, as required at 33 U.S.C. § 1321(c)(2) and 42 U.S.C. § 9605. Pursuant to 40 CFR Part 300.415(j), fund-financed removal actions under CERCLA § 104 and removal actions pursuant to CERCLA § 106 shall, to the extent practicable considering the exigencies of the situation, attain the applicable or relevant and appropriate requirements under Federal environmental law including but not limited to, Toxic Substances Control Act (TCSA), 15 U.S.C. Section 2601 *et seq.*, Clean Air Act (CAA), 42 U.S.C. Section 7401 *et seq.*, Solid Waste Disposal Act (SWDA), 40 U.S.C. Section 6901 *et seq.*, the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. Section 6901 *et seq.*, Fish and Wildlife Coordination Act (FWCA) 16 U.S.C. Section 661 *et seq.*, Hazardous Materials Transportation Act (HMTA) 49 U.S.C. Section 1801 *et seq.*, or any promulgated standard, applicable or relevant and appropriate requirements, criteria or limitations under a State environmental or facility siting law that is more stringent than any Federal standard, requirement, criteria, or limitation contained in a program approved, authorized or delegated by the Administrator and identified to the President by the State.

The DOT regulations contain requirements for transportation of hazardous materials, including hazardous wastes, to locations offsite. All hazardous substances, pollutants, or contaminants removed offsite for treatment, storage, or disposal are, were and will be treated, stored, or disposed of at a facility in compliance, as determined by EPA, pursuant to CERCLA

Section 121(d)(3), 42 U.S.C. Section 121(d)(3), and the following rule: "Amendment to the National Oil and Hazardous Substances Pollution Contingency Plan; Procedures for Planning and Implementing Offsite Response Action: Final Rule," 58 FR 49200 (September 22, 1993), and codified at 40 CFR § 300.440."

The Resource Conservation and Recovery Act (RCRA) waste analysis requirements found at 40 CFR § 261.20 and 261.30, RCRA's manifesting requirements found at 40 CFR § 262.20, and RCRA packaging and labeling requirements found at 40 CFR § 262.30 are ARARs for this removal action. Because onsite storage of hazardous wastes exceeded ninety days once the Site was transferred to the Receivership on August 2, 2010, RCRA storage requirements found at 40 CFR § 265 were, are and will be adhered to regarding drum and tote staging, segregation, containment, and signage.

5. Schedule

There have been three incidents at the Site. The initial incident occurred in July of 2010, the second in November of 2010, and the third in January of 2011.

During the first incident response, the EPA obtained access through written and verbal means from the PRP and PRP's counsel and initiated an emergency assessment and classic emergency removal action at the Site on July 2, 2010. The final shipment of waste was conducted on July 30. Demobilization of onsite equipment and frac tanks was conducted on August 2, 2010.

The second incident response activation took place on November 8, 2010. Access was confirmed from the Receivership prior to arrival at the Site. Final shipment of waste was conducted on January 6, 2011, and the Site was secured and stabilized for demobilization on January 7, 2011.

The third incident response activation took place on January 25, 2011. Access was confirmed from the Receivership prior to arrival at the Site. Final shipment of waste was conducted on February 5, 2011.

In the event a new incident occurs at the Site prior to commencement of PRP removal actions, the PRP(s)/Receivership, HCPHES, or TCEQ will contact the NRC and EPA hotlines and OSC appropriately.

B. Estimated Costs

This time-critical action is expected to be performed by the PRP(s) at an estimated cost of less than \$6,000,000. Current extramural costs relative to emergency response actions follow:

<u>Extramural Costs:</u>	<u>Initial Ceiling:</u>	<u>11/08/10 Increase:</u>	<u>Current Increase:</u>	<u>Current Ceiling:</u>
<u>Regional Allowance Costs:</u>				
ERRS	\$1,100,000	\$500,000	\$0	\$1,600,000
<u>Other Extramural Costs Not Funded From the Regional Allowance:</u>				
START	\$200,000	\$50,000	\$425,000	\$675,000
<u>Subtotal, Extramural Costs:</u>				
	\$1,300,000	\$550,000	\$425,000	\$2,275,000
<u>Extramural Costs Contingency:</u>				
	\$0	\$139,000	\$36,000	\$175,000
<u>TOTAL EXTRAMURAL COSTS:</u>				
	\$1,300,000	\$689,000	\$461,000	\$2,450,000

VI. EXPECTED CHANGE IN THE SITUATION SHOULD ACTION BE DELAYED OR NOT TAKEN

If these response actions are not taken at the Site, adjacent residents and workers will continue to be in danger of being exposed to hazardous substances that have and continue to be released at the unmaintained, unmonitored, and abandoned Site. As cited above, such exposure could possibly lead to adverse health effects including coma and death.

VII. OUTSTANDING POLICY ISSUES

There are no outstanding policy issues associated with this Site.

VIII. ENFORCEMENT

Based on full-cost accounting practices, the total costs incurred for this removal action that will be eligible for cost recovery are estimated to be \$ 3,815,353.

(Direct Cost) + (Other Direct) + (42.63% of Total Direct [Indirect Cost]) =
Estimated EPA Cost for a Removal Action

$\$ 2,450,000 + \$ 225,000 + (42.63\% \times (\$ 2,450,000 + \$ 225,000)) = \$ 3,815,353$

Direct costs include direct extramural costs and direct intramural costs. Indirect costs are calculated based on an estimated indirect cost rate expressed as a percentage of site-specific direct costs, consistent with the full cost accounting methodology effective October 2, 2000. These estimates do not include pre-judgment interest, do not take into account other enforcement costs, including Department of Justice costs, and may be adjusted during the course of a removal action. The estimates are for illustrative purposes only, and their use is not intended to create any rights for responsible parties. Neither the lack of a total cost estimate nor the deviation of actual total costs from this estimate will affect the United States' right to cost recovery.

IX. RECOMMENDATION

This decision document represents the selected removal action for the U.S. Oil Recovery (USOR) and MCC properties (collectively, the Site), both located in Pasadena, Texas, developed in accordance with CERCLA, 42 U.S.C. § 9601 et seq., and not inconsistent with the NCP, 40 C.F.R. Part 300. This decision is based on the administrative record for the Site.

Conditions at the Site meet the criteria as defined by Section 300.415(b) (2) of the 40 C.F.R. § 300.415(b) (2), for a removal, and I recommend your formal approval of the documented removal action. The total project ceiling is \$ 2,450,000.00. Of this, an estimated \$1,600,000 (without contingency) is from the Regional Removal Allowance.

Approved: _____

Samuel Coleman, P.E., Director
Superfund Division

Date: _____

3/17/11

U.S. OIL RECOVERY AND MCC SUPERFUND SITE

ADMINISTRATIVE ORDER ON CONSENT

TIME CRITICAL REMOVAL ACTION

ATTACHMENT C

MAP OF SITE AREA

ATTACHMENT C

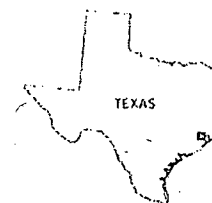
U.S. OIL RECOVERY AND MCC SUPERFUND SITE

ADMINISTRATIVE ORDER ON CONSENT

TIME CRITICAL REMOVAL ACTION

ATTACHMENT C

MAP OF SITE AREA



LEGEND

- SITE BOUNDARY
- APPROXIMATE PIPELINE LOCATION



0 180 360
SCALE IN FEET

TXD 101 10-0001-10-07-02
DSC 101 845255



US EPA REGION 6
START-3

FIGURE 1
OVERALL SITE MAP
US OIL RECOVERY AND MCC FACILITY
PASADENA, HARRIS COUNTY, TEXAS

DATE JULY 2019	PROJECT NO. 2019-01-01-01-01-01	SCALE AS SHOWN
-------------------	------------------------------------	-------------------

U.S. OIL RECOVERY AND MCC SUPERFUND SITE

ADMINISTRATIVE ORDER ON CONSENT

TIME CRITICAL REMOVAL ACTION

ATTACHMENT D

STATEMENT OF WORK

ATTACHMENT D

ADMINISTRATIVE ORDER ON CONSENT TIME CRITICAL REMOVAL ACTION

ATTACHMENT D

USOR/MCC SITE STABILIZATION/REMOVAL

STATEMENT OF WORK

SITE MONITORING/STABILIZATION

US Oil Recovery and MCC Recycling are both located within Pasadena, Harris County, Texas. On average Pasadena receives approximately 54-inches of rain per year. On average May is the driest month of the year with approximately 1.4-inches of rain, and on average September is the wettest month of the year with approximately 10-inches of rain. Due to the high annual average rainfall and immediate proximity to navigable waterways, Settling Respondents shall perform and commence the work outlined in this Statement of Work within 24 hours after approval of the Work Plan, the Quality Assurance Sampling Plan, and the Health and Safety Plan. The work shall include, at a minimum, the following activities until the aboveground threat is remediated or removed from the site:

1. Conduct site visits twice per week (at least 2 days apart, with one of the days being a Thursday) to document site conditions to include but not be limited to:
 - a. Perimeter security.
 - b. Structural integrity of the buildings (not to include the office) and secondary containments (i.e. no cracks and/or no visible leaks or seeps)
 - c. Available free-board within the containments and secondary containments.
 - d. Integrity of the drums/totes/containers on-site.
 - e. Photo-document site conditions including but not limited to any changes.
 - f. Each site visit report also needs to include a 7-day weather forecast.
 - g. Document findings and photo-documentation in an email with the appropriate attachments to a designated EPA point of contact(s).

In the event that less than 4-inches of free-board is available or a significant weather event is forecasted and will threaten the overflow from the containment regardless of the amount of free-board, Settling Respondents shall perform and complete a pump down of the liquids/material contained within the secondary containment. Settling Respondents shall initiate response actions within 24-hours of

documenting site conditions of less than 4-inches of freeboard or threatened overflow due to forecast of significant weather event.

Settling Respondents shall secure and stabilize and/or remove any hazardous substances, pollutants, or contaminants which migrate off-site. If health and safety monitoring of the Settling Respondents' contractor(s) pursuant to the Health and Safety Plan detects hazardous substances, pollutants or contaminants above federal and state NIOSH, OSHA and ACGIH health regulations, Settling Respondents shall 1) evaluate and assess the source of the elevated levels, and; 2) secure and stabilize and/or remove the source to reduce air emission levels to acceptable federal and state health standards. If removal of source material is the determined method of mitigation, Respondents shall conduct waste profiling. (Examples - 1. If air samples are collected from an adjacent property and hydrogen sulfide is detected at hazardous levels, the Settling Respondents shall remove the source material at the US Oil Recovery (USOR/MCC) Site which generated the hydrogen sulfide. 2. If a roll-off container leaks benzene contamination, which blows or drains off-site, the contents in the roll-off container will be removed by the Settling Respondents. 3. If a drum of corrosive substance leaks, the Settling Respondents will overpack, bulk, consolidate, dispose of, or remove by appropriate method, the leaking corrosive drum.)

If Settling Respondents elect to transport liquids/material off-site for disposal, the following items must be presented to EPA for review at least 3 calendar days prior to off-site disposal :

- Documentation of material being disposed including but not limited to sample data, waste volumes, manifests, and approved waste profile.
- Name and address of transportation company along with documentation of appropriate permits and licenses.
- CERCLA Approved and/or RCRA Permitted Disposal facility – name, address, and a point-of-contact
- Proposed disposal option (i.e. recycling, deep well injection, solidification, etc.).

The only exception to this notification deadline is the management of storm water or contamination-contacted storm water after the disposition of such has been initially established and reported to the EPA Point of Contact. Upon establishment of the disposition of the storm water and contamination-contacted storm water, containment content levels are within threat of overflow, and efforts will be

taken within the 24 hour deadline, the EPA Point of Contact will be notified within 4 hours of the decision to remove storm water or contamination-contacted storm water from the Site.

Deadlines and Technical Deliverables:

- Submit Work Plan, HASP, QASP to EPA for approval within 15 days following EPA's approval of Respondent's contractor and Project Coordinator pursuant to Paragraphs 11 and 12 of the Settlement Agreement.
- Be prepared to commence work within 24 hours following Work Plan, HASP and QASP approval.
- 3 days – Notification to EPA prior to removing any waste from the Site (specifics are noted above).
- 4 hours – Notification to EPA of the actions to remove Storm water or contamination-contacted storm water.
- Monthly Progress Reports shall be provided to EPA on a monthly basis rather than a 30 day basis.
- The work shall continue throughout the duration of any subsequent removal assessment and surface removal work, as needed.

